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2-1.1 LEGISLATIVE INTENT

This title is intended to:

- A.** Support the goals of the Cleveland General Plan;
- B.** Protect and promote public safety, health, and general welfare by providing adequate lighting, clean air, water and sewage control, and fire protection;
- C.** Protect private property rights;
- D.** Promote coordinated development, redevelopment, effective use of land, and site planning.
- E.** Encourage innovation in residential development and redevelopment that meets the growing demand for housing;
- F.** Preserve the character and stability of neighborhoods and conserve property values by encouraging the most appropriate uses of land within zoning districts;
- G.** Prevent substandard development, waste, inefficient use of land and resources, and danger and congestion in travel and transportation;
- H.** Ensure equal opportunity in housing to the handicapped;
- I.** Foster convenient, compatible and efficient relationships among land uses;
- J.** Require the provision of adequate off-street parking and loading facilities, and promote a safe, effective traffic circulation system;
- K.** Regulate and control the division of land;
- L.** Protect life and property in areas subject to floods and other natural disasters;

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- M.** Promote prosperity, peace and good order, comfort and aesthetics of the Town and its present and future inhabitants and businesses;
- N.** Protect and enhance the tax base and property values;
- O.** Secure economy in governmental expenditures; and
- P.** Protect the environment.

2-1.2 SCOPE AND APPLICATION

The provisions of this Title apply to all land and uses of land within the Town. This Title became effective on _____ and may be amended from time to time. A lot annexed and zoned that does not meet the minimum lot standards of this Title, may be used notwithstanding such requirements, if such lot was otherwise validly created.

This ordinance has been designed to protect and promote the small town atmosphere of Cleveland Town, which is strongly valued by its residents. Prospective future residents should be advised that the prevalent lifestyle in Cleveland Town may not be agreeable to all tastes.

In establishing the zones, the boundaries thereof, and the regulations and restrictions applicable to each of the zones, due and careful consideration was given, among other things to the suitability of the land for particular uses, and to the character of the zone, with a view toward conserving the value of buildings, and encouraging the most appropriate use of the land throughout the Town.

2-1.3 ZONING MAP

The boundaries of the zoning districts are set forth on a map entitled “Zoning District Map of the Town for Cleveland, Utah” is adopted as part of this section. This map shall be maintained in the office of the Town Recorder and made available for public review and inspection. Any changes made to the map shall be made as approved in **subsection (B)** below.

- A.** Unless otherwise expressly defined on the zoning map, zoning district boundary lines are lot lines, section lines, Town limit lines and (north, south, east, west) edges of the zoning lines as depicted on the zoning map. If uncertainty remains as to the boundary of a zoning district after application of the provisions

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of this subsection, the Planning Commission will interpret and determine the district boundary.

- B. All amendments to the zoning map shall be made by ordinance. The Town shall, within a reasonable time after adoption of any such amendment, place the amendment on the zoning map.

2-1.4 HOW TO USE THIS CHAPTER

A general description of the land use regulations follows. This description is intended to provide the reader with some guidance. Using the terms of Section 1 is not a substitute for the standards, criteria, and procedures contained in this Title.

- A. **ZONING MAP.** Prior to considering the development or redevelopment of land, an applicant should refer to the official zoning map to determine which base zoning and overlay districts correspond to the subject property. The official zoning map is available from the Town Recorder's Office.
- B. **ZONING DISTRICT SECTION.** Once the applicant has identified the applicable zoning district, the applicant should refer to that section of **Section 2-5** which corresponds to the applicable zoning district(s). Definitions are also found in **Section 2**. The applicant should next refer to the site development and design requirements within the zoning district Section to determine if the property is adequate in size to accommodate the proposed project. The site development and design standards will determine the building setbacks from the property lines, minimum lot area (if any), minimum open space (if any), maximum height, density, parking requirements for buildings and uses on the property, etc.
- C. **USE STANDARDS.** The applicant should then refer to the use table for the zoning district. The applicant should first determine if the desired use is allowed in the zoning district. If a use is not specifically listed it is prohibited from the zoning district. If the proposed use is allowed as a conditional use, the applicant must apply for and obtain a conditional use permit. Finally, if the use is an existing nonconforming legal use that is no longer allowed in the zoning district, and there is a proposal

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to change or modify a structure associated with the use, the applicant must apply for and obtain a permit for work as outlined in **Section 2-4** of this title.

- D. VARIANCES/RE-ZONES.** If the applicant cannot meet the standards described in subsection B, above, the applicant should determine whether there are alternative development options or any exceptions to the general rules that may accommodate the project. If the project does not meet standards and other development alternatives are not possible, then there are two methods available to attempt to vary the standards: the variance process and a petition for re-zone.
1. The variance process is generally used for existing development, or development of an existing, validly created lot. The Appeal Authority shall issue a variance upon the applicant's demonstration that the application meets each variance standard detailed in **Section 2-4 Land Use Authorities & Appeal Authorities** of this Title.
 2. A petition for re-zone is a request to change the development standards for the property in question. The process for requesting a re-zone is detailed in **Section 2-3 Administration and Enforcement** of this Title.
- E. SUBDIVISION OF LAND.** If the applicant would like to subdivide a piece of property, merge a number of different parcels into one parcel, or re-subdivide, the applicant may need to go through the subdivision process detailed in Sections: **2-10 Subdivisions** and **2-11 General Design Standards For Subdivisions**. The purpose of the subdivision process is to ensure that proposed building sites are appropriate for development; to obtain an accurate and permanent record of the separate interests of land that are created by subdivisions of land; to apportion the costs of public services and facilities serving the subdivision; to provide assurances to future buyers of land that the sub-divider owns the land to be sold; to provide legal and physical access to each lot; and to provide for maintenance of improvements, utilities, and amenities. There

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are a number of divisions of land to which the subdivision regulations do not apply. The applicant should review these exceptions to determine if the project will be required to complete the subdivision process. There is also an abbreviated process for projects that only require relocation of a lot line between two lots within an existing subdivision. See **Section 2-10**.

- F. MEANINGS AND INTENT.** All provisions, terms, phrases and expressions contained in this Title shall be construed according to Section **2-2 Definitions**.
- G. HEADINGS, ILLUSTRATIONS AND TEXT.** In case of any difference of meaning or implication between the text of this Title and any heading, drawing, table, figure, or illustration, the text shall control.
- H. LISTS AND EXAMPLES.** Unless otherwise specifically indicated, lists of items or examples that use terms such as “including”, such as”, or similar language are intended to provide examples, not to be exhaustive lists of all possibilities.
- I. COMPUTATION OF TIME.** References to days are calendar days. Exclude the first day and include the last day. If the last day is a Saturday, Sunday, or holiday observed by the Town, that day shall be excluded.
- J. REFERENCES TO OTHER REGULATIONS, PUBLICATIONS AND DOCUMENTS.** Whenever reference is made to a resolution, ordinance, statute, regulation, or document, it shall be construed as a reference to the most recent edition of such regulation (as amended), resolution, ordinance, statute, or document, unless otherwise specifically stated.
- K. TECHNICAL AND NON-TECHNICAL TERMS.** Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases that may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to

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such meaning.

- L. PUBLIC OFFICIALS AND AGENCIES.** All public officials, bodies, and agencies to which references are made are those of the Town of Cleveland unless otherwise indicated.
- M. MANDATORY AND DISCRETIONARY TERMS.** The words “shall”, “will” and “must” are always mandatory. The words “may” and “should” are advisory and discretionary terms.
- N. CONJUNCTIONS.** Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows;
 - 1. “And” indicates that all connected items, conditions, provisions, or events apply; and
 - 2. “Or” indicates that one or more of the connected items, conditions, provisions, or events may apply.
- O. TENSES AND PLURALS.** Words used in one tense (past, present, or future) include all other tenses, unless the context clearly indicates the contrary. The singular includes the plural, and the plural includes the singular.

2-1.5 CONFLICTING PROVISIONS

This Section is written to harmonize with federal, Utah State and Town laws. To the extent a provision of this Title conflicts with a federal, Utah State or local law or private contract, the following rules apply:

- A. CONFLICT WITH STATE OR FEDERAL REGULATIONS.** If the provisions of this Title are inconsistent with those of the State of Utah or the federal government, the more restrictive provision will control, to the extent permitted by law.
- B. CONFLICT WITH OTHER TOWN REGULATIONS.** If the provisions of this Title are inconsistent with one another or if they conflict with provisions found in other adopted

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ordinances, resolutions, or regulations of the Town, the more restrictive provision will control.

- C. CONFLICT WITH PRIVATE AGREEMENTS.** It is not the intent of this Title to interfere with, abrogate, or annul any easement, covenant, deed restriction, or other agreement between private parties. If the provisions of this Title impose a greater restriction than imposed by a private agreement, the provisions of this Title will control. If the provisions of a private agreement impose a greater restriction than this Title, the provisions of the private agreement will control. The Town shall not be responsible for monitoring or enforcing private agreements.

2-1.6 INTERPRETATION

The Cleveland Town Building Official shall have the power to interpret the provisions of this Title, provided that the Town staff shall consult with the Town Attorney concerning legal issues. The interpretations shall be consistent with the rules statutory construction and with the rules of conflicting provisions and shall be consistent over time until changed, in writing, by the Town Council. Such interpretations shall be entitled the weight accorded to administrative interpretations by the courts.

2-1.7 CREATION OF VESTED RIGHTS

The Town may alter certain private property rights by amending this Title from time to time as provided for in Section 2-3.

- A. HOW RIGHTS VEST.** Certain private property rights shall become fixed at law, and may not be altered for a period of time, when:
1. An application for a land use approval is considered submitted and complete when the application is provided in a form that complies with the requirements of applicable ordinances and all applicable fees have been paid.
- B. WHAT RIGHTS VEST.** The applicants' rights vest under this Title in those rights for which the applicant has applied.

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For example, if the applicant has applied for a subdivision, and has “vested rights” pursuant to subsection (A) above, the applicant’s rights vest under the subdivision ordinance, and the applicant is entitled to the benefit of the subdivision ordinance in effect at the time of vesting. An applicant’s vested rights under the subdivision ordinance, however, do not vest the applicant under an adopted building, fire or plumbing code, because the applicant has not submitted a complete application for the applicable permit, nor paid applicable fees.

Applications shall not vest if:

1. Revisions to the Title are pending at the time of application which would prohibit or further condition the approval sought; or
2. There exists a compelling and countervailing health, safety or welfare reason.

C. PRESERVATION OF VESTED RIGHTS/COMPLIANCE WITH CONDITIONS OF APPROVAL. An applicant with vested rights must comply with and maintain all conditions of final approval to preserve the vested rights. An applicant’s failure to meet or maintain conditions of approval constitutes the applicant’s knowing and willful waiver of the applicant’s vested rights.

D. APPLICABILITY OF ORDINANCES THAT ARE GENERAL IN NATURE. The establishment of a vested right shall not preclude the application of Town ordinances or regulations that are general in nature, applicable to all property subject to land use regulation, and necessary to preserve the health, safety or welfare of the community.

E. REQUIREMENTS TO BE APPLIED. Cleveland Town shall not impose on a holder of an issued land use permit a requirement that is not expressed:

1. In the land use permit or in documents on which the land use permit is based; or
2. In the Town’s ordinances.

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- F. CERTIFICATE OF OCCUPANCY NOT TO BE WITHHELD.** Cleveland Town will not withhold issuance of a certificate of occupancy because of an applicant's failure to comply with a requirement that is not expressed:
1. In the building permit or in documents on which the building permit is based; or
 2. In the Town's ordinances.
- G. REASONABLE DILIGENCE.** The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.

2-1.8 EXACTIONS

The Town may impose an exaction or exactions on proposed land use development if:

1. An essential nexus exists between a legitimate governmental interest and each exaction; and
2. Each exaction is roughly proportionate, both in nature and extent, to the impact of the proposed development.

2-1.9 TRANSITIONAL PROVISIONS

- A. VIOLATIONS CONTINUE.** Any violation of the previous Zoning Ordinance will continue to be a violation under this Title and will be subject to penalties and enforcement under Section 2-3, unless the use, development, construction, or other activity complies with the provisions of this Title.
- B. LEGAL NON-CONFORMITIES.** Any legal nonconformity under the previous Zoning Ordinance or created by the adoption of that Title will be a legal nonconformity under this Title. If a legal nonconforming use or structure under the previous Zoning Ordinance becomes conforming because of the adoption of this Title, then the nonconformity expires. A legal nonconforming use will become an illegal non-conforming use if the uses

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lapses for twelve (12) consecutive months.

C. APPROVED PROJECTS AND EXISTING LOTS. The provisions of this Title shall affect approved projects and existing lots as follows:

1. Use permits, variances, architectural or design approvals, subdivided lots, subdivision maps, Planned Unit Developments, Mobile Home Parks, and Recreational Vehicle Courts, which are valid on _____ shall remain valid until their expiration date. Projects with valid approvals or permits may be constructed as approved, provided that the permit or project approval is valid and has not lapsed. Any change in the use or occupation of such land shall be made in accordance with the amended provisions of this Title.
2. No provision of this Title shall require any change in the plans, construction, or designated use of any structure for which a building permit has been issued prior to _____.

D. VESTED RIGHTS/APPLICATIONS IN PROGRESS/RE-APPLICATION. An applicant with rights vested before _____, and pending approval on _____, may opt for review wholly under the terms of the previous Zoning Ordinance or under this Title. Any re-application for a permit that has expired must comply with the standards in effect at the time of re-application. Projects for which no application has been submitted and accepted as complete prior to _____, shall be subject to all requirements and standards of this Title.

2-1.10 SEVERABILITY

Should any chapter, section, clause, or provision of this Code be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this Code as a whole or any part thereof other than the part so declared to be invalid.

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Section 2: Definitions

Section 2. DEFINITIONS. For the purpose of this code, certain numbers, abbreviations, terms, and words shall be used, interpreted, and defined as set forth herein. Words not defined herein shall have a meaning consistent with Webster's New Collegiate Dictionary, latest edition. Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the plural number include the singular; the word "herein" means "in these regulations"; the word "regulations" means "these regulations"; "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied".

Accessory Buildings Large. An accessory building larger than 600 sq. ft. that is located on the same lot as a residence.

Accessory Building, Occupied. A building on the same lot as the principal building and that is:

- A. Clearly incidental to, and customarily found in connection with such principal building;
- B. Operated and maintained for the benefit of the principal use; and
- C. A dwelling unit or home office.

Accessory Building, Unoccupied. A building on the same lot as the principal building and that is:

- A. Clearly incidental to, and customarily found in connection with such principal building;
- B. Operated and maintained for the benefit of the principal use; and
- C. Not a dwelling unit.

Accessory Living Quarters. Accessory dwelling incidental to a church or airport.

Accessory Use or Building. A subordinate use or building customarily incidental to and located upon the same lot occupied by the main use or building.

Adult Oriented Businesses. Adult oriented business means any or all of the following or any portions of the following: adult book store, adult video store, adult novelty store, adult motion picture theater, adult theater.

Affected Entity. A county, municipality, independent special district under

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Utah Title 17A, Chapter 2, Independent Special Districts, local district under Utah Title 17B, Chapter 2, Local Districts, school district, interlocal cooperation entity established under Utah Title 11, Chapter 13, Interlocal Cooperation Act, specified public utility, or the Utah Department of Transportation, if:

- (a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;
- (b) the entity has filed with the municipality a copy of the entity's general or long-range plan; or
- (c) the entity has filed with the municipality a request for notice during the same calendar year

Agriculture. The tilling of soil, raising of crops, horticulture, gardening and other similar uses.

Agricultural Industry or Business. An industry or business involving agricultural products in manufacturing, packaging, treatment, sales, or storage, including but not limited to food packaging or processing plants. This definition does not include hog farms, commercial poultry businesses or rendering facility.

Alley. A public thoroughfare that is a secondary access to properties, generally located in the rear or side of two or more adjoining parcels of property.

Alterations, Structural. Any change in the supporting members of a building such as bearing walls, columns, beams, or girders.

Animal Hospital or Veterinary Offices. An establishment where animals are medically treated, lodged or trained by a licensed veterinarian.

Antenna. A transmitting or receiving device used in telecommunications that radiates or captures radio, television, or similar communication signals.

Antenna, Freestanding. An antenna mounted on the roof of or within a stand-alone support structure including but not limited to a wooden pole, steel pole, lattice tower, utility pole, lift tower, light standard, flag pole or other vertical support.

Antenna, Roof Mounted. An antenna or series of individual antennas mounted on the roof of a building.

Antenna, Temporary. An antenna used for a time period of less than thirty (30) days.

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Antenna, Wall Mounted. An antenna or series of individual antennas mounted fully against the exterior face of a building including on the face of a chimney. A wall or face of a building is defined as the entire area of all exposed vertical surfaces of a building that are above ground and facing approximately the same direction.

Antenna, Whip. An antenna that is cylindrical in shape. Whip antennas can be directional or omni directional and vary in size depending upon the frequency and gain for which they are designed.

Apartment Hotel. Any building that contains dwelling units and also satisfies the definition of a hotel, as defined in this Section.

Apartment House. A building that contains three or more dwelling units primarily for rent or lease or a building that contains an apartment or apartments and also contains other approved uses such as office or retail space.

Appeal Authority. A person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

Applicant. The owner of the property that is the subject of the application, or the owner's agent.

Application. A written request for development approval including, but not limited to an alteration or revision to an approved site development plan, conditional use permit, zoning or re-zoning, subdivision, or annexation. The term "application" shall not include any building permits associated with construction within an approved subdivision or on an existing platted lot unless otherwise specified.

Assembly Facility. A facility where parts are put together to develop a final product. Generally referring to automobile, computer and electronic assembly.

Assisted Living Center. "Assisted living center" means residences that provide for semi-independent living. Such facilities may be (1) equipped with studio or one bedroom apartments with limited kitchen facilities, generally designed for single occupancy; (2) contain central dining facilities where prepared meals are served to the residents; (3) employ full time nursing or medical assistance and supervision; and (4) may provide other additional services to residents.

Athletic, Tennis, or Racquet Club. An establishment providing facilities for physical development, exercise, sports, or recreation. Facilities may include exercise equipment,

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indoor and/or outdoor racquetball or tennis courts, jogging track, swimming pools, ice skating rink, indoor bathing, restaurant or snack bar, and sales of athletic equipment. Facilities may be open to the public for a fee, or available only to persons holding membership.

Auto Wrecking, Salvage Yard. The use of any lot, portion of lot, or tract of land for the storage and keeping of salvage, including scrap metals or other scrap material, unlicensed/inoperable vehicles or for the dismantling or demolition of obsolete automobiles or equipment, machinery, or parts thereof. This definition shall not be deemed to include such uses which are clearly accessory and incidental to any agricultural use permitted in the zone district. This definition includes impound lots.

Auto, Truck, Recreational Vehicle, and Equipment Sales and Rental. Sales of both new and used motor vehicles and equipment stored and displayed both indoors and on outside lots, but not to include non-serviceable or junk vehicles or equipment.

Automotive Repair Establishment. An establishment primarily engaged in the repair or maintenance of motor vehicles, trailers, and similar large mechanical equipment. Establishments involving auto body repair and painting services will require a conditional use permit. Not included are automotive salvage yards.

Automotive Self-Service Station. An establishment for the retail sale of automobile fuels and lubricants, at which the customer provides the service to his own vehicle, and at which no vehicle repair or maintenance service is offered. Such an establishment may offer for sale at retail other convenience items as a clearly secondary activity.

Automotive Service Station. An establishment whose primary purpose is the retail sale of gasoline or other motor vehicle and related fuel, oil, or lubricant. Secondary activities may include minor automotive repair, maintenance, or automatic car wash.

Balcony. A platform that projects from the wall of a Building and is enclosed by a railing, parapet or balustrade.

Banking or Financial Service. A bank, credit union, savings and loan association, or other establishment with a primary purpose of receiving, lending, exchanging, or safeguarding money, or performing financial advisory service. This definition shall include outside drive-up facilities for service to customers in automobiles.

Bar, Tavern, Lounge, and Club. An establishment intended primarily for the on-premises sale and consumption of alcoholic beverages, open either to the public or operated as a nonprofit private club for members only.

Basement. A story whose floor is more than 12 inches below the average level of the adjoining ground.

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Bed and Breakfast. A building where, for compensation, meals and lodging are provided.

Bond, Public Improvement. A one (1) year guarantee to the Town that all public improvements have been installed to Town specifications and will operate properly.

Building. Any structure, whether temporary or permanent, having a roof, and used or built for the shelter or enclosure of persons, animals, possessions, or property of any kind.

Building Area. The portion of a lot that is within the envelope formed by the required yards or setbacks, within which a structure can be located.

Building Height. Height is measured from the finished grade to the square of the building. Uneven heights in ground or building shall use the average elevation thereof. Roofs, chimneys, flagpoles, television antennae, church towers, and similar structures not used for human occupancy shall be excluded in determining height.

Building Inspector. Cleveland Town official or representative who is designated to inspect a building under construction and upon completion.

Building, Main. A building within which the principal land use of the lot is conducted.

Business. Any activity carried on for the purpose of gain or economic profit. The acts of employees rendering service to employers are not included in the term business unless otherwise specifically prescribed. Business includes but is not limited to, the sale or rental of tangible personal or real property, the manufacturing of goods or property and the rendering of personal services for others for consideration by persons engaged in any profession, trade, craft, occupation, non-profit organization or other calling.

Canopy. A roof or awning constructed of fabric or other material and extending outward from a building to provide a protective shield for doors, windows, or other openings with supports extended to the ground directly under the canopy or cantilevered from the building.

Carport. A private garage not completely enclosed by walls or doors.

Cemetery, Columbarium, Crematory, Mausoleum. Land or buildings used for the cremation, burial, or interment of the human dead but not including facilities for embalming.

Check Cashing/Title Loan Establishment. Any manner of lending institutions or check cashing establishments which offers to cash current or post dated checks, give personal or title loans, or accepts commodities such as gold and silver for compensation. This

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definition shall not include banks, credit unions, savings and loan establishments or other establishment with a primary purpose of receiving, lending, exchanging, or safeguarding money, or performing financial advisory services.

Chief Executive Officer. The Mayor of Cleveland Town.

Child Care, Facility. The provision of child care for business for nine (9) or more children including the provider's children who are under the age of eighteen (18).

Child Placing. Receiving, accepting, or providing custody or care for any child under 18 years of age, temporarily or permanently, for the purpose of:

- (a) finding a person to adopt the child;
- (b) placing the child temporarily or permanently in a home for adoption; or
- (c) foster home placement

Church. A building set apart primarily for the purpose of worship in which religious services are held and with which clergy is associated, the main body of which is kept for that use and not put to any other use inconsistent with its primary purpose, and which is tax exempt under the laws of the State of Utah.

Cinema Outdoor. An establishment at which motion pictures are projected onto an outdoor screen for viewing by patrons seated in parked motor vehicles.

Cinema, Indoor. An enclosed building used primarily for the presentation of motion pictures.

Civic Club, Fraternal Organization. A building or use, other than a church or school, operated by a nonprofit association or organization for a social, fraternal, political, civic, or philanthropic purpose, which may include a meeting hall and cooking and dining facilities for large groups but shall not provide overnight lodging.

Club, Private. Any non-profit corporation, or organization, operating as a social club, recreational, fraternal, athletic or kindred association organized primarily for the benefit of its stockholders or members and serving alcoholic beverages and/or food.

Co-location. The location of a telecommunication facility on an existing structure, tower, or building in a manner that precludes the need for that telecommunications facility to be located on a freestanding structure of its own.

Coal Yard. The storage of coal in quantities in excess of 10 tons and/or the retail or wholesale sale of coal.

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Complete Application. A submission, which includes all information requested on the appropriate form, and full payment of all applicable fees.

Conditional Use. A land use that, because of its unique characteristics or potential impact on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas of a zone district, or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

Congregate Living Facility. A residence in which three or more persons unrelated to the owner or provider reside, including but not limited to youth homes, residential facilities for the disabled, residential facilities for the elderly.

Condominium. Any structure or parcel that has been submitted to fractionalize ownership under the provisions of the Utah Condominium Ownership Act.

Conservation Easement. An easement designed to restore, enhance, protect, and sustain the quality and quantity of ecosystems and natural resources.

Convenience Goods Sales and Services. Stores or shops intended for retail sales of convenience goods or performance of convenience services. Goods and services regarded as convenience are those generally needed for daily home consumption and for which locations near residential neighborhoods are considered desirable. This category includes grocery store, drug store, variety store, personal service, hardware store, dry cleaning pick-up.

Constitutional Taking. Final action by the Town to physically take or exact private real property that requires compensation to the Owner because of the mandates of the Fifth or Fourteenth Amendments to the Constitution of the United States, or Article I, Section 22, of the Utah Constitution.

Council. Members of the Town Council of Cleveland.

County. The unincorporated area of Emery County.

Coverage. The percent of the total site area covered by structures or impervious paving other than those accepted in this ordinance.

Cul-de-sac. A minor street having an open end and being terminated at the other end by a vehicle turnaround.

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Culinary Water Authority. The department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

Cultural, Civic Services. A building primarily used for the public, nonprofit display of art, historic or cultural artifacts, or other inanimate exhibits or a building primarily used as a lending library or reading room.

Dairy. A commercial establishment housing animals for the processing and/or retail sale of dairy products.

Development. The act, process or result of erecting, placing, constructing, remodeling, converting, altering, relocating, or demolishing any structure or improvement to property including grading, clearing, grubbing, mining, excavating or filling of such property. This definition includes construction activity.

Disability. means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

(b) "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.

Disabled Care. A long-term care residential facility for disabled persons, persons suffering from a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

District. A portion of the area of Cleveland Town Utah shown on a zoning map (attached to this ordinance) and given a zone classification as set forth in this ordinance.

Dry-Cleaning Establishment. An establishment employing volatile or explosive substances for the cleaning or dyeing of fabrics. Excluded from this definition are traditional laundries employing water and soaps in the cleaning of fabrics and patron-operated dry-cleaning machines associated with Laundromats.

Dwelling. Any building, or portion thereof, which is designed for use for residential purposes, except hotels, boarding houses, lodging houses, and tourist cabins.

Dwelling, Multiple-Family. A building arranged or designed to be occupied by 3 or

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more families.

Dwelling, Single-Family. A building arranged or designed to be occupied by one family, the structure having only one dwelling unit.

Dwelling, Two-Family. A building arranged or designed to be occupied by two families, the structure having only two dwelling units.

Easement. A negotiated interest in the land of another which allows the easement holder specified uses or rights without actual ownership of the land.

Elderly Care. A long-term care residential facility for the elderly. The term does not include a health care facility.

Elderly Person. A person who is sixty (60) years old or older, and who desires or needs to live with other elderly persons in a group setting, who may or may not be capable of living independently.

Emergency Vehicle Access. See International Fire Code for proper vehicular access of land uses.

Equipment Shelter. A structure used to house equipment for telecommunications or other public facilities.

Escrow. A deposit of cash with the Town or an approved, alternate security in lieu of cash held to ensure a guarantee.

Farm Animals. Animals other than household pets that may, where permitted, be kept and maintained for education, family food production, or recreation. (See Livestock)

Fence. A physical barrier to delineate, contain, or designate an area designed for a specific use, such as an enclosure for a dwelling unit, an area of storage, etc.

Fence, Electric. A fence wired with low voltage (12 volt max) electricity.

Fence, Razor. A fence with razor coil, cable or tooth wire along certain portions.

Fence, Wildlife. Open fencing allowed at a height 6 ft or higher when a need is shown to protect animals from entering or leaving an area.

Final Action. The latter of the final vote or the approved, written decision on a matter.

Final Plat. A recordable Subdivision or condominium map.

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Fireworks Sales/Stand. The temporary display and sale of legally allowed fireworks. This use requires a business license and a temporary permit issued from the Cleveland Town Fire Chief or his/her designee after the business has had a satisfactory fire inspection.

Floor Area, Gross. The area of a building, including all enclosed areas designed for human occupation. Gross floor area does not include unenclosed porches, balconies, patios and decks, vent shafts, courtyards or garages.

Floor Area, Net Leasable. Gross floor area excluding common hallways, mechanical and storage areas, and restrooms.

Floor Area Ratio (FAR). The maximum allowed gross floor area divided by the area of the Lot or Parcel.

Frontage. The length of the property line of the lot fronting on one side of a street.

Gated Community. A subdivision or residential area where primary access is regulated through a gated entry point.

Garage, Commercial. A building other than a private garage used for the temporary parking of automobiles with or without a fee.

Garage, Private (including Carport). A detached accessory building or portion of a main building for the parking or temporary storage of automobiles of the occupants of the premises.

General Merchandise Sales and Related Services. Stores, department stores, or shops intended for sale of goods or merchandise, but not including convenience goods, liquor, motor vehicles, campers, trailers, lumber or adult oriented businesses.

General Plan. A document that a municipality adopts that sets forth general guidelines for proposed future development of the land within the municipality, as set forth in Sections 10-9-301 and 10-9-302 of the Utah Code.

Governing Body. The Town Council of Cleveland Town.

Grade. For buildings having no wall adjoining the streets, the average level of the ground (finished surface) adjacent to the exterior walls of the buildings.

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Group Home. “Group home” means a profit or non-profit boarding home for the sheltered care of persons with special needs, which, in addition to providing food and shelter may also provide some combination of personal care, social, or counseling services, and transportation. Group home includes congregate facilities for all persons.

Handicapped Person. A person who:

a. Has a severe, chronic disability that is attributable to mental or physical impairments, that is likely to continue indefinitely, and that results in a substantial functional limitation in three or more of the following areas of major life activity:

1. capacity for independent living;
2. economic self-sufficiency;
3. learning;
4. mobility;
5. receptive and expressive language;
6. self-care;
7. self-direction; and

b. Requires special interdisciplinary or generic care, treatment, or other services that are individually planned and coordinated to allow the person to function in, and contribute to, a residential neighborhood.

Health Care Center (Convalescent Center). A publicly-or-privately-operated facility, other than a hospital, intended for the long-term, in-patient care of human illness or infirmity, including the elderly and developmentally disabled, normally employing the services of skilled and licensed practitioners.

Health Department. The Utah State Division of Environmental Health or local health agency having jurisdiction.

Heavy/Farm Equipment Sales. Vehicles or equipment in excess of one ton used in

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farming, construction, or other related services.

Home Child Care Center. The provision of child care for business for eight (8) or fewer children, including the provider's children who are under the age of eighteen (18), within a dwelling unit.

Home Occupation. An occupation carried on by the occupant of a dwelling as a secondary use in connection with which there is no display other than that provided in Cleveland Town Ordinance with relation to signs, no stock in trade, no person employed other than members of the family residing on the premises, and no power tools used requiring a motor in excess of one horsepower.

Hospital. An institution designed for the diagnosis, treatment, and care of human illness or infirmity and providing health services, primarily for in-patients, and including as related facilities, laboratories, out-patient departments, training facilities, and staff offices, but not including clinics or health care centers.

Hotel. A building designed or occupied as the more-or-less temporary abiding place of 15 or more individuals who are, for compensation, lodged, with or without meals.

Household Pets. Animals or birds ordinarily permitted in the house and kept for company or pleasure, such as dogs, cats, canaries or other animals that are customarily confined in cages, but not including a sufficient number of dogs to constitute a kennel, as defined in this ordinance.

Impound Lots. See junk yard (below)

Inaction. An application is inactive and subject to denial on the basis of inactivity if, through the act or omission solely of the applicant and not of the Town:

- A. More than six (6) months has passed since a request for additional information was made by the Town without a response from the applicant;
- B. Upon notice the applicant is more than sixty (60) days in default of the payment of any fee assessed by resolution, or has not paid the fee under protest;
- C. The applicant has stated an intent to abandon the project; and
- D. The application appears to have been filed in bad faith for the purpose of attempting to vest rights prior to a zoning change, without actual intent to construct the project applied for.

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Industrial (or Research) Park. A tract of land that is subdivided and developed according to a plan for the use of a community of industries and related uses and that is of sufficient size and physical improvement to protect surrounding areas and the general community and to assure a harmonious integration into the neighborhood.

Itinerant Merchant. Any person, firm or corporation, whether as owner, agent, consignee or employee, whether or not a resident of the municipality, who engages in a temporary business of selling and delivering goods, wares and merchandise within the municipality, and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, tent, railroad boxcar, public room in any hotel, motel, lodging house, apartment, shop or any street, alley, or other place within the municipality, for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction. This also includes a person, firm or corporation associating temporarily with a local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as part of, or in the name of any local dealer, trader, merchant or auctioneer.

Intermittent Use. A temporary business of selling and delivering goods, wares and merchandise within the Town of Cleveland.

Junk Yard. The use of any lot, portion of a lot, or tract of land for the storage, keeping, or abandonment of junk, including scrap metals or other scrap materials, or for the dismantling, demolition, or abandonment of automobiles, other vehicles, or machinery or parts thereof; provided that this definition shall not be deemed to include such uses which are clearly accessory and incidental in the district.

Kennel, Commercial. A shelter for or a place where more than three (3) dogs or cats are bred, boarded, or trained for monetary gain.

Kennel, Private. A shelter for or a place where more than three (3) and no more than five (5) dogs and cats are bred, boarded, or trained for monetary gain. The planning commission may approve additional animals in excess of five (5) when reasonable conditions are met. See Conditional Use Section of this Ordinance.

Land Use Application. An application required by a municipality's land use ordinance.

Land Use Authority. A person, board, commission, agency, or other body designated by the local legislative body to act upon a land use application.

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Land Use Ordinance. A planning, zoning, development, or subdivision ordinance of the municipality, but does not include the general plan.

Laundromat. An establishment in which patrons wash, dry, or dry-clean clothing and other fabrics in coin-operated, self-service machines.

Laundry. An establishment at which clothing and other fabrics are washed and pressed. Excluded from this definition are dry-cleaning establishments and Laundromats.

Lattice Tower. A self-supporting multiple- sided, open steel frame structure used to support telecommunications antenna equipment.

Legislative Body. The Cleveland Town Council.

Leasable, Gross. Total area including hallways, mechanical equipment room and common bathrooms.

Leasable, Net. Total area excluding hallways, mechanical equipment room and common bathrooms.

Livestock. Includes, but is not limited to, horses, bovine animals, llamas, alpacas, emus, ostriches, turkeys, geese, ducks, chickens, rabbits, sheep, goats, swine, reindeer, donkeys, mules and any other hoofed animals.

Liquor Store. A retail sales store authorized by the Utah State Liquor Commission to sell packaged alcoholic beverages for off-premise consumption.

Local Jurisdiction. Cleveland Town.

Lot. A parcel of land occupied or to be occupied by a main building or group of buildings (main and accessory), together with such yards, open spaces, lot width, and lot area as are required by this ordinance and having frontage upon a street. More than one dwelling structure may be built on a lot only in cases where the lot is of such size as to provide such required lot area, yards, and frontage for each dwelling structure as are required for the first dwelling structure on the lot.

Lot, Corner. A lot situated at the intersection of two (2) Streets, the interior angle of such intersection does not exceed one hundred thirty five degrees (135°).

Lot Depth. The longest distance measured between the front and rear lot lines.

Lot Line. Property lines bounding the lot.

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Lot, Width. The minimum distance between the side lot lines at the front yard or front building facade. For three (3)-sided lots, the minimum distance between the rear and side lot lines at the front yard or front building facade.

Lot Line, Front. The property line dividing a lot or parcel from the right-of-way of the street from which structure takes access.

Lot Line, Rear. The property line opposite the front lot line.

Lot Line, Side. Any lot or property line other than a front or rear lot line.

Low Power Radio Services Facility. An unmanned structure, which consists of equipment used primarily for the transmission, reception or transfer of voice or data through radio wave or wireless transmissions. Such sites typically require the construction of transmission support structures to which antenna equipment is attached.

Lumber Sales and Storage. The sale and display of lumber and building supplies, including the outside storage of lumber and related merchandise.

Manufacturing, Heavy. The manufacturing, compounding, processing, assembling, packaging, or testing of goods or equipment within an enclosed structure, or an open yard that is capable of being screened from neighboring properties, is serviced by trucks or other vehicles, and whose environmental impact is within the industrial performance standards as outlined in this ordinance.

Manufacturing, Light. The manufacturing, compounding, processing, assembling, packaging, or testing of goods or equipment entirely within an enclosed structure, with no outside storage, serviced by small (1 ton) trucks or vans, and imposing a nearly negligible impact upon the surrounding environment by noise, vibration, smoke, dust, or pollutants.

Manufactured Home. A multi-sectional mobile home not exceeding two (2) Stories in height that is designed to be installed on a permanent foundation system and was manufactured after June 15, 1976. A permanent dwelling structure built of prefabricated units which are assembled and erected on the site, and which meets the IBC standards. For the purposes of this Title, a manufactured home on a permanent foundation shall be the same as a single family dwelling, see **Dwelling, Single-Family** above.

Mixed Use, Commercial. Development which incorporates a mix of uses, including retail commercial, and/or offices and residential.

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Mixed Use, Horizontal. Commercial and residential uses which are within close proximity to each other and designed in a “village” manner, but not necessarily within the same building structures.

Mixed Use, Vertical. Commercial and residential uses, which are within the same building structure.

Massage Therapy Services. See Office, Professional.

Medical Clinic. See Office, Professional.

Mental Health Center. A publicly-or-privately-operated facility, intended for the diagnosis and treatment of mental or emotional disorders.

Military Surplus Goods/Store. New or used military equipment, vehicles, or supplies, which are available for resale to the general public.

Mobile Home. A detached single-family dwelling unit of not less than thirty feet in length, designed for long-term occupancy and to be transported on its own wheels or on a flatbed or other trailers or detachable wheels; containing a flush toilet, sleeping accommodations, a tub or shower bath, kitchen facilities, and plumbing and electrical connections provided for attachment to appropriate external systems, and ready for occupancy except for connections to utilities and other work. Presectionalized, modular, or prefabricated houses not placed on permanent foundations, shall be regarded as mobile homes and only authorized in mobile home parks.

Mobile Home Lot. A designated portion of a mobile home park designed for the accommodation of one mobile home and its accessory buildings or structures which complies with all relevant building codes and ordinances.

Mobile Home Pad. Part of the mobile home space which has been prepared and reserved for the placement of one mobile home.

Mobile Home Park. A residential development in which owners of mobile homes or manufactured housing may rent or lease a lot on which to place their home. Such developments may provide all of the amenities and improvements typical of subdivisions.

Mobile Home Park Plumbing System. The park sewer and water supply systems within the park property line.

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Mobile Home Service Building. A building which is not a mobile home which houses separate toilet and bathing facilities for men and women and which may also have laundry facilities, flushing-rim sink, and other facilities as may be required by the ordinances of the Town of Cleveland.

Mobile Home Park Sewage System. Any pipe or line not built into the mobile home which is used for the disposal of human waste.

Model Home. A dwelling unit used initially for display or marketing purposes, with a certificate of occupancy, which typifies the units that will be constructed.

Monopole. A single cylindrical steel or wood pole that acts as the support structure for antennas.

Mortuary. Funeral Home. An establishment in which the human dead are prepared for burial or cremation. The facility may include a chapel for the conduct of funeral services, spaces for informal gatherings, and related accessory uses.

Motel. A building or group of buildings containing individual sleeping units designed and used primarily for the accommodation of transient automobile travelers and with automobile parking immediately accessible.

Municipal Facilities. Those improved properties owned by the municipality, or the public.

Natural Waterways. Those areas, varying in width, along streams, creeks, springs, gullies, or washes that are natural drainage channels as determined by the building inspector.

New Development. Any new construction activity.

Noncomplying Structure. A structure that legally existed before its current zoning designation and because of a zoning change does not conform to the zoning district's development standards.

Nonconforming Sign or Sign Structure. A sign or sign structure or portion thereof lawfully existing prior to May 31, 2005 which does not conform to all height, area, yard spacing, animation, lighting or other regulations prescribed in the zone in which it is located.

Nonconforming Use. A use of a lot or parcel that legally existed on the lot or parcel

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before its current zoning designation; has been maintained continuously for the preceding twelve months; and does not conform with the zoning regulations that now govern the land.

Nursery. A business that grows, cultivates, and/or distributes and sells plants and other landscaping or horticulture related items.

Nursing Home. A business described also as a "rest home", or "convalescent home", other than a hospital, in which persons are lodged long-term and furnished with care rather than diagnoses or treatment.

Office. Business or Government. A place intended for the conduct of administration or services by a business enterprise or unit of government.

Office, Professional. A place intended for the conduct of a recognized learned profession. Such uses include offices or clinics devoted to treatment and care of human illness or injury (medical, dental, chiropractic offices, massage therapist, and similar uses). Other professions so defined would include, but not be limited to, accountants, architects, engineers, and lawyers. This definition does not allow for in-patient care facilities or adult oriented businesses.

Official Streets Master Plan. As adopted by the Town Council, the designation of each existing and planned street and right-of-way, and those located on approved and filed plats, for the purpose of providing for the development of the streets, highways, roads, and rights-of-way and for their future improvement, reconstruction, realignment, and necessary widening, including provision for curbs and sidewalks. The classification of each street and right-of-way is based upon its location in the respective zoning district of the Town, its present and estimated future traffic volume and its relative importance and function.

Official Zoning Map. The map adopted by the Town Council pursuant to law showing the streets, zoning districts, and Town boundaries; and any amendments or additions thereto resulting from the approval of rezones, subdivision or annexation plats and the subsequent filing of such approved plats.

Open Space. Space reserved in parks, courts, playgrounds, golf courses, and other similar open areas and those areas reserved to meet the density requirements of planned unit development.

Ordinary High Water Mark. The line on the bank to which the high water ordinarily rises annually in season as indicated by changes in the characteristics of soil, vegetation or other appropriate means, which consider the characteristics of the surrounding areas.

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Where the ordinary high water mark cannot be found, the top of the channel bank shall be substituted. In braided channels, the ordinary high water mark or substitute shall be measured so as to include the entire stream feature.

Outdoor Recreation, Park or Playground (Public or Private). An area free of buildings except for rest rooms, dressing rooms, equipment storage and maintenance buildings, and open-air pavilions and used primarily for recreation activities not involving motor vehicles or overnight use.

Outdoor Recreational Uses. Recreational activities involving off highway vehicles and similar motorized vehicles for recreational use and horse arenas, equestrian parks and equine activity, including but not limited to equine shows, fairs, competitions, performances, racing or sales that involve any breed of equines and any equine disciplines; boarding or training equines and teaching persons equestrian skills.

Owner. Any person, or group of persons, having record title to the property sought to be developed or subdivided and the owner's agent.

Parcel. An un-platted unit of land described by metes and bounds and designated by the County Recorder's Office with a unique tax identification number.

Parking Area. An un-enclosed area or lot other than a street used or designed for parking.

Parking Area, Private. An open area, other than a street, used for the parking of the automobiles of occupants of a dwelling. A parking area or structure used exclusively for residential, non-commercial uses.

Parking, Off-Street. A parking area or parking facility to be used by the public or the patrons, employees or residents of a building or business that does not include parking spaces on a public street.

Parking, On-Site. A parking area or parking facility dedicated for the sole usage of a building or business that may include parking on a public street in addition to any Off-Street Parking dedicated for the same building or business.

Parking, Public. A parking area or parking facility to be used by the public for fee or otherwise.

Parking, Shared. The development and use of parking areas on two (2) or more separate properties for joint use by the businesses or residents on those properties.

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Parking Space, Automobile. A space within a building or a private or public parking area, exclusive of driveways, ramps, columns, office and work areas, for the parking of one automobile. The minimum parking stall size shall be (9' x 18').

Pawn Shops. A business dealing in or collecting used or second hand merchandise or personal property, which has been legitimately obtained.

Personal Service Establishment. Establishments primarily involved in providing personal grooming and related services. This definition shall include barbershops, beauty parlors, tailors, massage services, but not adult-oriented businesses.

Person. An individual, corporation, partnership, or incorporated association of individuals such as a club.

Pet Grooming. The grooming of small pets such as dogs and cats, provided that no more than five(5) animals may be on the premises at one time and that no lodging of animals is allowed.

Planned Unit Development (PUD). A form of development characterized by a comprehensive and unified Site plan and design reviewed under the Master Planned Development review processes described in each zone Section of this code. The MPD generally includes a number of housing units; a mix of building types and land uses; clustered buildings designed to integrate one with another and to complement the surrounding land uses; significant open space; flexible in interior setbacks, heights, and density; and valued community amenities.

Planning Commission. The Cleveland Town Planning Commission.

Plat. A map or other graphical representation of lands being laid out and prepared in accordance with Utah Code §10-9-804.

Preschool. The education or teaching of children including kindergarten preparation, music lessons, etc.

Preliminary Plat. The preliminary drawings of a proposed subdivision, specifying the layout, uses, and restrictions.

Property. Any parcel, lot, or tract of land, including improvements thereon, in the possession of or owned by, or recorded as the real property of, the same person or persons.

Property Line. The boundary line of a parcel or lot.

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Property Line, Front. That part of a parcel or lot, which abuts a street.

Public Hearing. A hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

Public Meeting. A meeting that is required to be open to the public under Utah Title 52, Chapter 4, Open and Public Meetings.

Public Improvement. Any building, water system drainage ditch, roadway, parkway, sidewalk, pedestrian way, tree, lawn, off-street parking lot, space or structure, lot improvement, or other facility for which the Town may ultimately assume responsibility, or which may effect a Town improvement.

Public Right of Way. An area of land that is legally described in a registered deed for the provision of public access.

Public Service. Uses, which may be housed in separate buildings, or which may occupy a space within a building, that are operated by a unit of government to serve public needs such as police (with jail), fire service, ambulance, post office, or judicial court, but not including public utility stations or maintenance facilities.

Public Street. A street, including the entire right of way, which has been dedicated to and accepted by the Town of Cleveland or other governmental agency or which has been devoted to public use by legal mapping, use or other means.

Public Utility Stations. A structure or facility used by a public or quasi-public agency to store, distribute, generate, or chemically treat water, power, gas, sewage, equipment, or other service elements.

Reasonable Notice. The requirements of reasonable notice are met if notice of hearing or meeting is posted in at least three public places within the jurisdiction and/or notice of the hearing or meeting is published in a newspaper of general circulation in the jurisdiction or if actual legal notice of the hearing or meeting is given.

Record of Survey Map. A graphic illustration of a survey of land prepared in accordance with state laws.

Recreational Vehicle. A vehicular unit, other than a mobile home, primarily designed as a temporary dwelling for travel, recreational, and vacation use, which is either self-propelled or is mounted on or pulled by another vehicle, including but not limited to a travel trailer, a camping trailer, a truck camper, a motor home, a fifth-wheel trailer, and a

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van.

Recreational Vehicle Park (Travel Trailer Park). Any area or tract of land or separately-designated section where lots are rented to one or more owners or users of recreational vehicles for a temporary time.

Religious, Educational Institute. A 28 U.S.C. 501(c)(3) non-profit organization engaged in teaching, community programs, or spiritual endeavors, which qualifies as a tax-exempt religious institution under Title 28 of the U.S. Code.

Repair Services, Small Appliance or Equipment. An establishment for the repair of household or other small appliances or equipment and at which no such appliances or their parts are stored out-of-doors.

Residential Facility for the Disabled/ Residential Facility for Persons with a Disability. A facility that is occupied by three (3) to five (5) unrelated persons with disabilities on a 24-hour per day basis in a family-type arrangement under the supervision of a house family or manager, and that conforms to all applicable standards and requirements of and is licensed by the Utah Department of Human Services - Division of Services for People with Disabilities or Health and is operated by or under contract with that department. Such facilities shall not include facilities for the following: Secure Treatment, inpatient treatment, residential treatment, adult day care, day treatment, comprehensive mental health treatment, comprehensive substance abuse treatment, or domestic violence treatment as defined in 62A-1-1 16 UCA.

Residential Facility for the Elderly. A long-term care residential facility for elderly Persons. The term does not include a health care facility.

Residential Support. Arranging for or providing the necessities of life as a protective service to individuals or families who are disabled or who are experiencing a dislocation or emergency which prevents them from providing these services for themselves or their families. Treatment is not a necessary component of residential support.

Residential Treatment Center. A 24 hour group living environment for three (3) to nine (9) individuals unrelated to the owner or provider that offers room or board and specialized treatment, rehabilitation, or habilitation services for persons with emotional, psychological, developmental, or behavioral dysfunctions, impairments. For the purposes of this section, Residential Treatment Center shall not include facilities for

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comprehensive substance abuse treatment or domestic violence treatment as defined in 62A-1-1 16 UCA.

Rehabilitation Center: Drug and Substance Abuse. An establishment for housing and treating persons with drug or substance abuse addictions or dependencies, but is not considered a Group Home or Congregate Living Facility.

Resource Family Home. A home licensed to provide services to a child in the custody of the state and includes a foster care home and a legal risk home.

Restaurant, Fast Food, Drive-In. An establishment distinguished from a traditional sit-down restaurant in that service is provided from a counter or window for consumption either off or on the premises; on-premise consumption normally requires considerably less time than consumption in a traditional restaurant. Service may also be provided to customers in automobiles by use of an outside drive-up window; parking is provided immediately adjacent to the building. This definition includes also specialty food stores such as ice cream parlors or delicatessens, having counter or window service.

Restaurant, Cafe, Confectionery. An establishment where food is prepared and served to customers for consumption on the premises.

Resubdivision. A change in a map of an approved or recorded subdivision plat if such change affects any right-of-way, or lot line; or any change in a map or plan legally recorded prior to the adoption of regulations controlling Subdivisions.

Retail Commercial: General. An establishment or business that offers for sale goods or services in full depth and variety. A business or establishment of this nature may exceed 10,000 square feet in floor space.

Retail Commercial: Limited. An establishment or business that offers for sale goods or services in full depth and variety. A business or establishment of this nature may not exceed 10,000 square feet in floor space.

Right-of-Way. A strip of land, dedicated to public use that is occupied, or reserved to be occupied, by a Street, crosswalk, trail, stairway, railroad, road, utilities, or for another special use.

Road Classification. The streets, highways, roads, and rights-of-way designated on the streets Master Plan.

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Road, Right-of-Way Width. The distance between property lines measured at right angles to the centerline of the street.

Roof. The building element, which covers the top of the structure as the walls enclose the sides.

Sanitary Sewer Authority. The department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

Satellite Receiving Station. Any apparatus or device designed for the purpose of transmitting and/or receiving radio, television, satellite microwave, or other electromagnetic energy signals between terrestrially and/or orbital based uses. This definition includes but is not limited to what are commonly referred to as satellite earth stations, satellite microwave antennas, TVRO's or dish antennas. This definition does not include conventional television antennae.

School, Private or Quasi-Public. A school operated by a private or quasi-public organization or individual, which has a program similar to that provided in any public school in the State of Utah, except that such curriculum may include religious instruction. A private school may be a profit-making or nonprofit organization. This definition shall not include commercial schools.

School, Public. An educational facility operated by a school district or other public agency of the State of Utah.

Screen or Screened. The act, process, or result of visually and/or audibly shielding or obscuring a Structure or use from adjacent property by fencing, walls, berms, densely planted vegetation or other features.

Secure treatment. 24-hour specialized residential treatment or care for persons whose current functioning is such that they cannot live independently or in a less restrictive environment. Secure treatment differs from residential treatment to the extent that it requires intensive supervision, locked doors, and other security measures which are imposed on residents with neither their consent nor control.

Senior Citizen Center. A government sponsored public building, other than a church or school, serving the social and recreational needs of the elderly. Such a center may include a meeting hall and cooking and dining facilities for large groups but shall not provide overnight lodging.

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Setback. The required minimum distance between a Building or Structure and the closest of the following:

- Property Line;
- Platted Street; or
- Existing curb or edge of a street.

Shopping Center, Neighborhood. A planned commercial development providing primarily for the sale of convenience goods and services. The center is designed to serve a residential neighborhood. See Retail Commercial: Limited.

Shopping Center, Community (Retail Commercial: General). A completely planned and designed commercial development providing for the sale of general merchandise and convenience goods and including a variety store, discount store, or supermarket.

Significant Vegetation. Includes all large trees six inches (6") in diameter or greater measured four and one-half feet (4.5') above the ground, all groves of small trees, and all clumps of oak or maple covering an area fifty square feet (50 sq. ft.) or more measured at the drip line.

Sign. Any words, letters, parts of letters, figures, numerals, phrases, sentences, emblems, devices, trade names or trade marks, by which anything is made known, such as are used to designate an individual, a firm, an association, a corporation, a profession, a business, a commodity, or product which are visible from any public way. Sign shall also include the sign structure supports, lighting system and any attachments, ornaments or other features intended to draw the attention of observers

§ **A-frame sign.** A sign constructed with two sides attached at the top so as to allow the sign to stand in an upright position. Usually temporary and/or moveable.

§ **Alteration, Sign.** "Alteration" means a change or rearrangement in the structural part or design of a sign whether by extending on a side, by increasing in area or height, or by relocating or change in position.

§ **Animated Sign.** A sign, which includes motion or rotation of any part by mechanical, or artificial means, or subdued color changes.

§ **Awning Sign.** A sign painted, printed or placed on any portion of a cloth or fabric covering.

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- \$ **Banner Sign.** A sign made of fabric or any non-rigid material with no enclosing framework. A type of temporary sign
- \$ **Billboard Sign.** An off-premise advertising sign.
- \$ **Campaign Sign.** A temporary sign used by candidates running for political and elected offices and signs with political purposes.
- \$ **Flashing Sign.** A sign, which has or appears to have motion or rotation of the lighting elements or displays flashing or intermittent light.
- \$ **Flat Sign.** A sign erected parallel to and attached to the outside wall of a building and extending not more than twenty-four inches (24”) from such wall with messages of copy on the face side only.
- \$ **Floodlighted or Externally Lighted Sign.** A sign made legible in the absence of daylight by devices, which reflect or project light upon it.
- \$ **Illuminated Sign.** A sign, which has characters, letters, figures, designs, or outlines illuminated by electric lights or luminous tubes.
- \$ **Mobile Changeable Copy Sign.** A sign mounted on a trailer or frame, lighted, or unlighted, with changeable lettering.
- \$ **Monument Sign.** A sign six feet or less in height which is flush to the ground.
- \$ **Name Plate Sign.** A sign indicating the name or names of person(s) legally occupying the premises.
- \$ **Overhanging sign.** A sign, which projects twelve inches or more beyond any portion of the roof of a building.
- \$ **Pole Sign.** A sign affixed in or upon the ground supported by one or more structural members, with air space between the ground and the bottom of the sign face.
- \$ **Roof Sign.** A sign, which is erected partly or wholly on the roof of the building.
- \$ **Sign Area.** The area of a sign that is used for display purposes, excluding the minimum frame and supports. In computing sign area, only one side of a back-to-back or double-faced sign shall be computed when signs are parallel or diverge from a common edge by an angle of not more than ten (10) degrees. For signs that do not have a frame or a separate background, the sign area shall be computed on the basis of the least rectangle, triangle or circle large enough to frame the display. Sign areas

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in the shape of a sphere, prism, cylinder, cone, pyramid, square or other such shape shall be computed as one-half of the total surface area.

- § **Sign Maintenance.** The upkeep of signs in a safe, presentable and good condition, including the replacement of defective parts, repainting, cleaning and other acts required for the maintenance of said sign.
- § **Sign Setback.** The minimum distance that any portion of a sign or sign structure shall be from any street property line.
- § **Snipe Sign.** A temporary sign or poster, which is attached to the supports for another sign, a public utility pole, tree, fence, etc.
- § **Sign Structure.** Anything constructed or erected supporting a sign, which requires locations on or below the ground or attached to something having location on or below the ground.
- § **Temporary Sign.** Any sign, banner, pennant, valance or advertising display constructed of paper, cloth, canvas, light fabric, cardboard, wallboard or other light materials, with or without frames, intended to be displayed out of doors for a short period of time.

Site Development Standards. Regulations unique to each zone concerning standards for development including, but not limited to lot areas, setbacks and building height.

Sketch Plat. A sketch preparatory to the preliminary plat, or subdivision plat in the case of minor subdivisions, to enable the owner to save time and expense in reaching general agreement with the Planning Commission as to the form of the plat.

Slope. The level of inclination of land from the horizontal plane determined by dividing the horizontal run, or distance, of the land into the vertical rise, or distance, of the same land and converting the resulting figure to a percentage value.

Small Engine Repair. An establishment engaged in the repair and maintenance of small engines with an engine displacement size no greater than 2000 cc. This includes but is not limited to: motorcycles, OHV's, ATV's, home and garden tools and equipment, outboard motor watercraft (engine removed), snowmobiles, chainsaws, and other similar small engines.

Solicitors. A solicitor is any person who goes upon the premises of any business or private residence, not having been invited by the occupant thereof for the purpose of selling, offering for sale, or taking orders for merchandise or services door to door within

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the Town. Merchandise shall include goods, food, wares, photographs, and subscriptions to any kind of publication, tickets, coupons, or receipts representing value.

Special District. An entity established under the authority of Utah Title 17A, Special Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or unit of the state.

Stable, Private. A detached accessory structure used for the keeping and housing of livestock by the occupants of the premises.

Stable, Public. A stable other than a private stable.

Stealth Telecommunications Facility. A telecommunications facility, which is disguised as another object or otherwise concealed from public view.

Storage Land Sea Containers. Any trailer commonly described as a storage container or storage unit, including, but not limited to semi-trailers, cargo trailers and any other similar unit with a storage space of greater than 120 square feet.

Storage Units. A lot or parcel of property containing any number of individual locking sheds or units for lease or rent to store private property. Customarily fenced and lighted for the security of the premises.

Story. A habitable level within a building serving to define the building height. Basements that emerge less than 4 ft from grade or attics not exceeding 4 ft at the kick wall shall not constitute an additional story.

Story, Half. A story with at least two of its opposite sides situated in a sloping roof, the floor area of which does not exceed two-thirds of the floor immediately below it.

Stream. A naturally fed watercourse, that flows year-round or intermittently during years of normal rainfall. This definition excludes ditches and canals constructed for irrigation and drainage purposes.

Stream Corridor. The corridor defined by the stream's ordinary high water mark.

Street. A private or public right-of-way, highway, avenue, boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easements, and other way.

Street , Access. A street that serves a small number of dwellings and usually

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does not allow through traffic. Usual ADT (average daily traffic) range is 0-250 vehicles.

Street, Arterial. A street which provides for through traffic movement between areas and across the town, with moderate access to abutting property subject to necessary control of entrances, exits, and curb use and also provides access to highways. Arterials are not usually included in residential street plans. Maximum ADT is 3,000+ vehicles.

Street, Collector. A street that provides for a high volume of traffic movement between major arterials and local streets, and direct access to abutting property. Usual ADT range is 1,000-3,000 vehicles.

Street, Local. A street that provides for direct access to abutting land and for local traffic movements.

Street, Private. A right-of-way or easement in private ownership, not dedicated or maintained as a public street, which affords the principal means of access to two or more lots.

Street, Public. A street that has been dedicated to and accepted by the Town Council; that the Town has acquired and accepted by prescriptive right; or that the Town owns in fee. A public thoroughfare, which affords principal, means of access to abutting property and has a right-of-way that exceeds 26 feet in width. The term street shall include avenue, drive, circle, road, parkway, boulevard, highway, thoroughfare, or any other similar term.

Street, Subcollector. A street which conveys traffic to more dwellings and includes through traffic between access streets and collectors. Usual ADT range is 250-1,000 vehicles.

Streetscape. The distinguishing characteristics of a particular street including paving materials, adjacent space on both sides of the street, landscaping, retaining walls, sidewalks, building facades, lighting, medians, street furniture and signs.

Structure. Anything constructed, the use of which requires a fixed location on or in the ground, or attached to something having a fixed location on the ground and which imposes an impervious material on or above the ground; definition includes "Building".

Structure, Pre-existing. A structure, which was legally constructed prior to the adoption of this ordinance.

Structural Alterations. Any change in the supporting members of a building, such as bearing walls, columns, beams, or girders.

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Subdivision. Any land, vacant or improved, which is divided or proposed to be divided into two (2) or more lots, parcels, site, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development, either on the installment plan or upon any and all other residential and nonresidential zoned land, whether by deed, metes and bounds description, devise and testacy, lease, map, plat, or other recorded instrument. Subdivision does not include:

- A. A bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable zoning ordinance;
- B. A recorded agreement between owners of adjoining properties adjusting their mutual boundary if:
 - 1. No new lot is created; and
 - 2. The adjustment does not result in a violation of applicable zoning ordinances; or
 - 3. A recorded document, executed by the owner of record, revising the legal description of more than one contiguous parcel of property into one legal description encompassing all such parcels of property.
- C. The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a "subdivision" under State law as to the un-subdivided parcel of property or subject the unsubdivided parcel to the subdivision ordinance.

Subdivision, Major. All subdivisions of ten or more lots, or any size subdivision requiring any new street or extension of municipal facilities, or the creation of any public improvements, and not in conflict with any provision or portion of the General Plan, official zoning map, streets master plan, or these regulations..

Subdivision, Minor. Any subdivision containing less than (10) lots that may require the recordation of a plat and all or part of the development requirement of a major subdivision, and not in conflict with any provision or portion of the General Plan, official zoning map streets master plan, or these regulations.

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Subdivision Plat. The final map or drawing, on which the applicant's plan of subdivision is presented to the Town Council for approval and which, if approved, may be submitted to the County Recorder for filing.

Subdivision, Simple Lot. Any subdivision containing not more than three (3) lots fronting on an existing street, not involving any new street, or the extension of municipal facilities, or the creation of any Public Improvements, and not adversely affecting the remainder of the parcel or adjoining property, and not in conflict with any provision or portion of the General Plan, Official Land Use Map, streets master plan, or these regulations. Subdivisions qualifying as a simple lot subdivision are exempt for the plat requirement.

Surplus, Second Hand Store. An establishment that sells surplus items, used furniture, appliances, clothing, and miscellaneous small items. Excluded from this definition are establishments selling used motor vehicles, their parts, military surplus, and other heavy equipment.

Technical Necessity. A particular design, placement, construction or location of a telecommunications facility that is technically necessary for telecommunications consistent with the Federal Telecommunications Act of 1996, as amended.

Temporary Outdoor Use. A use, activity, vending cart, special event, or commercial use outside that is not permanent in nature and after a 72 hour time period ceases or is removed.

Temporary Use. A use, activity or special event that is not permanent in nature and after a designated time period ceases or is removed.

Telecommunications. The transmission, between or among points specified by a user, of information of the user's choosing, without change in the form or content of the information as sent or received.

Telecommunications Facility. A telecommunications facility of less than 35' in height consisting of antenna, equipment shelters, and related structures used for transmitting and/or receiving telecommunications and/or radio stations.

Theater, Concert Hall. A building or amphitheatre used primarily for the presentation of live stage productions or performances.

Trailer, Travel. (See Recreational Vehicle.)

Transfer Station. A facility designed for the transfer and transport of solid waste.

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Travel Park. (See Recreational Vehicle Park.)

Unincorporated. The area outside of the incorporated boundaries of cities and towns

Use. The activities occurring on a lot or parcel of land for which land or a building is arranged, designed, or intended or for which land or a building is or may be occupied, including all accessory uses.

Use, Pre-existing. A use, which validly existed prior to (date of adoption) and has not been abandoned for more than six (6) months.

Utility Capacity. The maximum capacity of a utility service to operate safely and effectively whether it be; electricity generation and delivery, sewage disposal, water pressure, or telecommunication transmission

Vending Cart. A small wheeled, non-motorized vehicle from which to sell food and/or merchandise for immediate consumption or use.

Warehouse Storage Units. A building in which goods, merchandise, or equipment are stored for eventual distribution, or for which storage space is rented.

Welding Machine Shop. A building or structure where pieces of metal are welded.

Yard. An open space on a lot, unoccupied and unobstructed from the ground upward.

Yard, Front. An open, unoccupied space, in the same lot with a building, between the front line of the main building and the street line and extending for the full width of the lot.

Yard, Rear. A yard extending across the full width of the lot between the most rear main building and the rear lot line. The depth of the required rear yard shall be measured horizontally from the nearest point of the rear lot line. On lots that are not rectangular in shape, the required minimum rear yard may be an average of the distances measured from the rear corners of the main building directly to the rear lot line.

Yard, Side. An open, unoccupied space, except as otherwise provided in this ordinance, on the same lot with the building, between the side line of the building and the side lot line, and extending from the front yard to the rear yard; or the shortest distance across said space from the main building to the side lot line.

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Youth Home. A 24-hour group living environment for three (3) to five (5) persons under the age of 18, unrelated to an owner or operator that offers room, board or specialized services to residents. Youth Home may include facilities for the following: resource family home, child placement, or residential support as defined in Chapter 62A UCA. Youth Home shall not include facilities for the following: secure treatment, inpatient treatment, residential treatment, adult day care, day treatment, comprehensive mental health treatment, youth program, comprehensive substance abuse treatment, or domestic violence treatment as defined in 62A UCA.

Youth Program. A nonresidential program, designed to provide behavioral, substance abuse or mental health services to minors that:

- (i) serves either adjudicated or non-adjudicated youth;
 - (ii) charges a fee for its services;
 - (iii) may or may not provide host homes or other arrangements for overnight accommodation of the youth;
 - (iv) may or may not provide all or part of its services in the outdoors;
 - (v) may or may not limit or censor access to parents or guardians; and
 - (vi) prohibits or restricts a minor's ability to leave the program at any time of his own free will.
- (b) "Youth Program" does not include recreational programs such as Boy Scouts, Girl Scouts, 4-H, and other such organizations.

Zoning map. A map, also known as a land use map, adopted as part of a land use ordinance that depicts land use zones, overlays, or districts

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- 2-3.1 AMENDMENTS TO THE ZONING CODE OR MAP**
- 2-3.2 REVIEWING BODIES**
- 2-3.3 FEE SCHEDULE FOR PERMITS**
- 2-3.4 ALLOWED USE REVIEW**
- 2-3.5 CONDITIONAL USE REVIEW**
- 2-3.6 SIGN PERMIT REVIEW**
- 2-3.7 TELECOMMUNICATIONS REVIEW**
- 2-3.8 NOTICE**
- 2-3.9 TERMINATION OF PROJECTS FOR INACTION/ABANDONMENT**
- 2-3.10 PENALTIES**
- 2-3.11 GENERAL ENFORCEMENT AUTHORITY**
- 2-3.12 NOTICE OF VIOLATION**
- 2-3.13 SERVICE OF NOTICES**
- 2-3.14 REMEDIATION PROCESS**
- 2-3.15 FINE RECOVERY PROCESS**
- 2-3.16 LICENSING**
- 2-3.17 APPEALS AND RECONSIDERATION PROCESS**
- 2-3.18 CONSTITUTIONAL TAKINGS REVIEW AND APPEAL**
- 2-3.19 NOTICE MATRIX**

2-3-1 AMENDMENTS TO THE ZONING CODE OR MAP

Amendments to this title shall be made in the following manner:

- A. APPLICATION.** An applicant must file a written request for amendment with the Town Clerk's Office. The Town Council, Planning Commission, or owner/applicant may initiate an amendment as provided below. An owner/applicant shall pay the filing fee prescribed by resolution, and shall file an application, which shall include, without limitation:
 - 1. The legal description of all property included;
 - 2. Common address if available; and
 - 3. A written statement addressing the criteria required for approval pursuant to **2-3.1(E)** below.
- B. HEARINGS BEFORE PLANNING COMMISSION.** The Planning Commission, a Land Use Authority, shall hold a public hearing on all amendments to this title or to the Land Use Zoning

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Map. The Town Clerks's Office shall cause a notice, including a description of the property for which the zoning amendment is requested, a brief explanation of the proposed zoning, and the date, place and time of the public hearing, to be prepared as provided in **2-3.8** below. The purpose of the notice is to reasonably inform the general public, surrounding property owners and governmental jurisdictions of the application. No minor omission or defect in the notice or mailing shall be deemed to impair the validity of the proceedings to consider the application.

- C. ACTION BY PLANNING COMMISSION.** Following the public hearing, the Planning Commission shall adopt a written recommendation to the Town Council, advising the Council to approve, disapprove, or modify the proposal. If the Planning Commission fails to take action within sixty (60) days of the close of the public hearing, the Town Council shall consider the matter forwarded from the Planning Commission with a negative recommendation.
- D. HEARING BEFORE COUNCIL.** The Town Council may hold a public hearing on all proposed amendments to this title or Land Use Zoning Map forwarded from the Planning Commission. Notice of the public hearing shall be provided in accordance with **2-3.1(B)** above.
- E. CRITERIA/REQUIRED FINDINGS:** The Town's land use zoning is the result of a detailed and comprehensive review and determination of the Town's present and future land use allocation needs. In order to establish and maintain sound, stable, and desirable development within the Town, re-zoning of land is to be discouraged and allowed only under the limited circumstances herein described. Therefore, the Planning Commission may recommend, and the Town Council may grant, a re-zoning application only if it determines, in written findings, that the re-zoning is consistent with the policies and goals of the Cleveland Town General Plan and that the applicant has demonstrated the following:

 - 1. The proposed re-zoning is necessary either to comply with the Cleveland Town General Plan proposed Land Use Map, or to

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provide land for a community need that was not anticipated at the time of adoption of the Cleveland Town General Plan; or

2. Existing zoning was either the result of a clerical error or a mistake of fact, or that it failed to take into account the constraints on development created by the natural characteristics of the land, including but not limited to, steep slopes, flood-plain, unstable soils, and inadequate drainage; or
3. Land or its surrounding environs has changed or is changing to such a degree that it is in the public interest to encourage redevelopment of the area or to recognize the changed character of the area.

F. TEMPORARY OR EMERGENCY ZONING. The Town Council may enact an ordinance, without a public hearing or Planning Commission recommendation, which establishes temporary zoning regulations for any part or all of the area with the Town if the:

1. Town Council makes a written finding of compelling countervailing public interest; or
2. The area is not zoned.

Temporary zoning regulations may prohibit or regulate the erection, construction, reconstruction, or alteration of any building or structure or any subdivision approval. The Town Council shall establish a period of limited effect for the ordinance, which period may not exceed six (6) months.

2-3.2 REVIEWING BODIES.

A complete list of all review bodies can be found in section **2-4.1 Powers and Duties Matrix** of this title.

- A.** No building permit shall be valid for any structure unless the permit for the proposed structure has been submitted to and have been approved by the proper Land Use Authority.

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- B.** No new use shall be valid on any property unless the use is allowed in the zone, or unless a Conditional Use permit has been properly issued for the use.
- C.** No subdivision map shall be recorded unless all conditions of subdivision approval have been satisfied or otherwise secured.
- D.** The Planning Commission shall review all completed applications, and shall make recommendations to the Town Council on all applications for which the Town Council is the Land Use Authority. On applications for which the Planning Commission is the Land Use Authority, the Planning Commission may consult with legal advisors and other contracted employees for recommendations. The Planning Commission may process one (1) application at a time, per property or may process coordinated applications simultaneously. **No review shall occur until all applicable fees are paid.**
- E.** The Building Official issues building permits. The Town Council issues business licenses.
- F.** The Planning Commission reviews, holds a public hearing and forwards a recommendation to the Town Council regarding, each application for subdivision approval, subdivision plat amendment, initial zoning, re-zoning, condominium record of survey, and amendments to this Title.
- G.** The Town Council shall act as the Land Use Authority and hear all requests for variances. The Town Council acting as an Appeal Authority shall hear all appeals for: Administrative decisions for which they were not also the Land Use Authority, Conditional Use Permits, Nonconforming Structures and Noncomplying Uses.
- H.** The Town Attorney acting as an Appeal Authority shall hear all appeals for: The Annexation Policy Plan, Annexation Applications, Subdivision Applications and Plat Approval, Vacation or Changing a Subdivision Plat, Amendment to a Platted Street, Business Licenses and any other appeal not heard by the Town Council.

2-3.3 FEE SCHEDULE

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The most recently adopted fee schedule of Cleveland Town is **Resolution No. _____** and is part of this code by reference.

2-3.4 ALLOWED USE REVIEW

- A. PLAN REVIEW PROCESS.** The following process and those outlined in Sections: **2-10 Subdivisions, 2-11 Large Scale Developments**, applies to all applications for new development.
- B. INITIAL CONTACT.** An applicant for new development shall contact the Planning Commission to discuss the scope and purpose of the proposed development and the requirements of this code, including the following:
1. An allowed use within the zone;
 2. Complies with all applicable development requirements of the zone, including building height, setback, front, side, and rear yards, and lot coverage;
 3. Respects lot lines of a legally subdivided lot;
 4. Complies with the parking requirements for the zone;
 5. Conforms with applicable design guidelines, if any, for the zone;
 6. Can adequately be serviced by roads, existing or proposed utility systems or lines; and
 7. Pertains to land on which all tax assessments have been paid.
- C. PRELIMINARY REVIEW.** The applicant shall provide the Planning Commission with the following:
1. A statement of intended use;
 2. Drawings in sufficient detail to allow staff to review the proposal for compliance with this code;

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3. The tax identification number for the parcel;
4. A vicinity map to orient the parcel to its surrounding infrastructure;
5. Project identification (project name, location, developer and developer's address and contact information);
6. Concept drawings shall be either 8 ½" x 11" or 11" x 17" and shall include the following:
 - a) Location and height of existing and proposed structures within the proposed development and within two hundred (200) feet of the proposed development;
 - b) Location of fire hydrants and street-lights within two hundred fifty (250) feet of the proposed development;
 - c) Property lines and dimensions indicating total site area, parking and driveway area, gross area of all buildings and structures, area of proposed landscaping indicated as a percentage of lot coverage by landscaping;
 - d) North arrow;
 - e) Proposed buildings, parking areas, drive-aisle widths, road or driveway lengths and landscaped areas. Indicate number and layout of proposed parking spaces;
 - f) Locations of access, curb cuts, gutters, sidewalks and proposed driveways as well as proposed traffic and pedestrian circulation patterns;
 - g) Public Improvements and dedications;
 - h) Location and design of proposed walls, landscaping and exterior lighting;

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- i) Phasing plan, if any;
- j) Description and hours of intended uses; and
- k) Payment of the application fee set by fee resolution.

D. RESIDENTIAL SITE PLAN REVIEW. The site plan drawing shall include:

- 1. General:
 - a) Dated drawings prepared on a 22" x 34" format;
 - b) Indicated scale shall be no less than 1" = 40';
 - c) Name of project/development, address and developer's name;
 - d) Parcel dimensions;
 - e) North arrow;
 - f) Total site area;
 - g) Parking and driveway area;
 - h) Location of new buildings and structures;
 - i) Location of existing buildings and structures;
 - j) All existing sewer mains, water mains, fire hydrants, and electric lines;
 - k) Building elevations with proposed materials of construction for new construction or exterior modifications of existing buildings; and
 - l) Any further information related to the specific site development as requested by Cleveland Town Officials.

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E. COMMERCIAL SITE PLAN REVIEW. (Not a Subdivision) The site plan drawings shall include:

- a) Dated drawings prepared on a 22" x 34" format;
- b) Indicated scale shall be no less than 1" = 40';
- c) Name of project/development, address and developer's name;
- d) Parcel dimensions;
- e) North arrow;
- f) Total site area;
- g) Parking and driveway area;
- h) Location and height of new buildings and structures;
- i) Location and height of existing buildings and structures;
- j) Setbacks for on-site and off-site structures;
- k) Landscaped area (indicate percentage of total site area to be landscaped);
- l) All existing and proposed sewer mains, water mains, fire hydrants and electric lines;
- m) Building elevations with proposed materials of construction for new construction or exterior modifications of existing buildings;
- n) Provide existing and proposed utility and lighting information;
- o) Provide location and size of vehicular entrances and exits; and

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- p) Any further information related to the specific site development as requested by Cleveland Town Officials.
- F. BUILDING PERMIT.** Upon approval of the building and site plan drawings, and payment of all applicable fees, and compliance with all adopted building codes, the Building Official shall issue a building permit to the applicant. A permit shall be required in order to move any building or structure from one lot to another.
- G. INSPECTIONS.** The Building Official or other designated official shall inspect the project during construction through its completion to verify conformance with approved plans.
- H. REJECTED USES.** If an application does not meet the criteria set forth above, the Town shall notify the applicant stating specifically which criteria have not been satisfied.
- I. DISCLAIMER.** No permit shall be valid if any of the criteria listed in this section has not been met.

2-3.5 CONDITIONAL USE REVIEW. There are certain uses that, because of unique characteristics or the potential for detrimental impacts, may not be compatible in some areas of a zone or may be compatible only if certain conditions are imposed. The Planning Commission will evaluate all Conditional Use permit applications. The Planning Commission shall review and decide all applications for a Conditional Use permit according to the following procedure:

- A. DEVELOPMENT REVIEW COMMITTEE.** If determined necessary by the Planning Commission, an applicant shall attend a pre-application conference with the Planning Commission and other Town staff or departments to discuss the proposed improvements associated with the Conditional Use and the conditions that the staff would recommend to mitigate proposed adverse impacts. This meeting will allow other Town Departments to provide comments on the application.
- B. THE APPLICATION.** An applicant must pay all appropriate fees

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and must file a complete application.

- C. PUBLIC HEARING.** The Planning Commission may conduct a public hearing on the Conditional Use Permit application and shall either approve, deny, or modify and approve the application. Upon receipt of a complete application, the Town Clerk shall provide reasonable notice as provided in **2-3.8 Notice** of this section, when it is determined that a public hearing is required.
- D. STANDARDS FOR REVIEW.** The Town shall not issue a Conditional Use permit unless the Planning Commission, for all other Conditional Uses, concludes that the application complies with the standards of review specific to the zone in which the use is proposed.
- E. TRANSFERABILITY.** A Conditional Use permit runs with the land.
- F. EXPIRATION.** Unless otherwise indicated in the final conditions, Conditional Use permits shall expire one (1) year from the date of initial approval, unless the conditionally permitted use has commenced on the site.
- G. ANNUAL REVIEW.** The Planning Commission may review Conditional Use permits on an annual basis for compliance with all final conditions of approval.
- H. REVOCATION.** If the Planning Commission or the Building Official determines that the holder of a Conditional Use permit is in violation of the terms or conditions upon which the permit was issued, the Town Clerk shall notify the permit holder and schedule a hearing before the Planning Commission at which the permit holder must show cause to the Planning Commission why the Conditional Use permit should not be revoked. If the Planning Commission determines that the terms or conditions of the permit have been violated, it shall cause the permit holder to specify how the holder will promptly comply with the terms and conditions of the permit, or it shall revoke the permit.
- I. APPEALS.** Appeals must be made pursuant to **2-3.17 Appeals** of

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this section.

2-3.6 SIGN PERMIT REVIEW. This ordinance regulates to the maximum extent allowed by law.

A. EXCEPTIONS. The following signs are not regulated by this ordinance:

1. Signs of a governmental nature for the control of traffic and other regulatory purposes such as street signs, danger signs, railroad crossing signs and signs of public service companies indicating danger and aids to service or safety;
2. Signs, which are associated with public and quasi-public organization functions, which are clearly of a temporary nature;
3. Interior signs;
4. Campaign signs;
5. Flags, emblems, or insignias of any nation or political subdivision;
6. Signs not exceeding one square foot in area and bearing only property numbers, postal box numbers or names or occupants of premises;
7. Legal notices, identification information, or directional signs erected by governmental bodies;
8. Commemorative plaques of recognized historical agencies, or identification emblems or symbols of religious orders provided that no such plaque, symbol or identification emblem exceeds three square feet in area, and such plaque, symbol or emblem is placed flat against a building; and
9. Existing signage, which has been previously approved, shall not be required to comply with this Section insofar as the initial installation is concerned. All other requirements are applicable.

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- B. NONCONFORMING SIGNS.** A nonconforming sign shall not be reconstructed, raised, moved, placed, extended or enlarged unless said sign is changed so as to conform to all provisions of this Section. Alterations shall not be interpreted to include changing the text or copy of off-premises advertising signs, theater signs, outdoor bulletin or other similar signs which are designed to accommodate changeable copy.
- C. ABATEMENT.** The nonconforming sign provisions of this Section shall not be applicable to prohibited signs.
- D. PERMITS.** Except as provided in this code, it is unlawful to display, erect, relocate, or alter any sign without first submitting a sign permit application to the Planning Commission and obtaining a recommendation for a sign permit from the Planning Commission. When a Cleveland Town sign permit has been issued, it is unlawful to change, modify, alter, or otherwise deviate from the terms or conditions of said permit without prior approval of the Building Official and the Planning Commission. A written record of such approval shall be entered upon the original permit application and maintained in the files of the Building Official. The application for a sign permit shall be made by the owner or tenant of the property on which the sign is to be located, or his/her authorized agent, or a licensed sign contractor and shall be accompanied by the following plans and other information:
1. The name, address and telephone number of the owner or persons entitled to possession of the sign or control of the same and of the sign contractor or erector;
 2. The location by street address of the proposed sign structure;
 3. A site plan and elevation drawings of the proposed sign, caption of the proposed sign and elevations of building facades if the application is for a wall sign. The site plan shall include the proposed location of the sign in relation to the face of the building or to the boundaries of the lot on which it is situated;

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4. Plans for freestanding signs requiring a building permit shall indicate the scope and structural detail of the work to be done, including details of all connections, guy lines, supports and footings, and materials to be used, stamped by a professional engineer licensed in the State of Utah;
5. Application for, and required information for such application, and electrical permit for all electric signs if the person building the sign is to make the electrical connection; and
6. A statement reflecting the signs value as personal property.

E. EXEMPT SIGN CHANGES. The following changes do not require a sign permit:

1. The changing of the advertising copy or message of signs specifically designed for the use of replaceable copy;
2. Electrical maintenance, repainting, or cleaning maintenance of a sign;
3. The repair of a sign;
4. Real estate signs no larger than six square feet;
5. Nameplate signs.

F. TRAFFIC HAZARDS. Signs or other advertising structure shall not be erected at the intersection of any streets or driveways in such a manner as to obstruct free and clear vision; or at any location where by reason of the position, shape or color, it may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal device, or make use of words, phrases, symbols or characters in such manner as to interfere with, mislead or confuse vehicle operators.

1. At intersection streets and within the clear view area, there shall be no signs allowed, unless a sign is less than three (3) feet in height as measured from the average grade of the intersecting streets.

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2. For signs over pedestrian ways, the clearance between the ground and the bottom of any projecting or ground sign shall not be less than eight (8) feet.
3. For signs over driveways for vehicular traffic, the minimum clearance shall be fourteen (14) feet.
4. For signs more than three (3) feet in height and having less than an eight (8) foot clearance, the front setback shall be the same as for buildings in that zoning district. In no case shall the front setback be less than eighteen (18) inches from the front property line as measured from the leading edge of the sign.

G. SIGNS OVER PUBLIC PROPERTY. No sign shall be located on publicly owned land or inside street rights-of-way except signs required and erected by permission of an authorized public agency. This restriction shall include, but not be limited to, handbills, posters, advertisements or notices that are fastened, placed, posted, painted or attached in any way upon any curbstone, lamp post, telephone pole, electric light or power pole, hydrant, bridge, tree, rock, sidewalk or street. No projecting sign attached to a building shall project over public property more than four feet and in no case be closer than four feet to curb line or edge of a street, whichever is more restrictive. Ground signs must be setback at least eighteen (18) inches from any public right-of-way.

2-3.7 TELECOMMUNICATIONS. All telecommunications regulations apply to both commercial and private low power radio services and facilities, such as cellular or Personal Communications Systems (PCS) and paging systems.

- A. TELECOMMUNICATIONS SIGNS.** Signs shall only be permitted if they are related to the health and safety of the general public. All proposed signs shall be submitted with the telecommunications facility application and are subject to review by the Planning Commission.
- B. REMOVAL.** The Building Official is empowered to require an un-maintained or abandoned low-power radio service antenna to be

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removed from the building or premise when that antenna has not been repaired or put into use by the owner, the person having control, or the person receiving the benefit of the structure within thirty calendar days after notice is given to the owner, the person having control, or the person receiving the benefit of the structure.

- C. ABANDONMENT.** The applicant, or applicant's successor(s) and/or assignee(s) shall be responsible for the removal of unused telecommunications facilities within twelve (12) months of abandonment of use. If such tower is not remove by the property owner, then the Town may employ all legal measures, including as necessary, obtaining authorization from a court of competent jurisdiction, to remove the tower, and after removal may place a lien on the subject property for all direct and indirect costs incurred in dismantling and disposing of the tower, including court costs and reasonable attorney fees.

2-3.8 NOTICE. The Town shall provide notice of all public hearings that are required by this ordinance.

- A. PUBLIC HEARING REQUIREMENTS.** The Town Clerk shall provide reasonable notice of all public hearings and meetings, which notice shall contain a description of the property, with a brief explanation of the proposed use, and the date, place and time of the public hearing, which notice shall be:
1. Posted in at least three (3) public places in the Town. In addition on proposed annexations, re-zones, and major subdivision applications, if deemed necessary may be posted on the Town website; and
 2. When required either published in or submitted to a newspaper of general circulation within the Town at least ten (10) days before the date of the Planning Commission and/or Town Council hearing.
- B. NOTICE TO AFFECTED ENTITIES.** When required by law the Town Clerk shall provide notice by first class mail to affected entities as defined in Section **2-2 Definitions** of this code.

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- C. PURPOSE OF NOTICE.** The purpose of the notice is to reasonably inform surrounding property owners and jurisdictions of an application for zoning, multi-family, commercial or industrial development or a proposed modification to the General Plan. No minor omission or defect in the notice or mailing shall be deemed to impair the validity of the proceedings to consider the zoning application. If at or prior to the public hearing an omission or defect in the mailed notice is brought to the attention of the Planning Commission, it shall determine whether the omission or defect impairs or has impaired a surrounding property owner's ability to participate in the public hearing, upon which finding it shall continue the hearing on the application for zoning for at least fourteen (14) days. Any omission or defect in the mailed notice that is not brought to the commission's attention or that the commission finds did not impair a surrounding property owner's ability to participate in the hearing shall not affect the validity of the zoning proceedings.
- D. EFFECT OF NOTICE.** Proof that notice was given pursuant to subsection A above is prima facie evidence that notice was properly given. If notice given under authority of this section is not challenged as provided for under State law within thirty (30) days from the date of the hearing for which the challenged notice was given, the notice shall be deemed to have been adequate and proper.

2-3.9 TERMINATION OF PROJECTS FOR INACTION. Applicants must move their projects either to approval or denial in a reasonably expeditious manner. Upon fourteen (14) days written notice to the applicant, the Town may formally deny an application, which remains inactive for six (6) months. Delays occasioned by the Town shall not constitute cause for terminating an application. An applicant may appeal the Planning Commission's denial of a project for Inaction to the Town Council in the same manner as any other appeal. The Town Council may reinstate subject to conditions, or may deny reinstatement. If reinstatement is denied, the application is formally denied.

2-3.10 PENALTIES. Any person, firm, partnership, or corporation, and the principals or agents thereof violating or causing the violation of this Section, or a permit issued pursuant to this Section, shall be guilty of a Class "C" misdemeanor and punished upon conviction by a fine and/or imprisonment as provided for by

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Utah State law.

- A.** In addition, the Town shall be entitled to bring a civil action to enjoin and/or abate the continuation of the violation.
- B.** Residents within the Town or owners of property within the Town may file an action to enjoin the continuation of a violation of this ordinance affecting their interests.

2-3.11 GENERAL ENFORCEMENT AUTHORITY. Whenever the Town finds that a violation of this ordinance or applicable State codes has occurred or continues to exist, the procedure outlined below shall be followed. The Town has the authority and power necessary to gain compliance with the provisions of the violated ordinance or statute. These powers include the power to issue notices of violation, to issue misdemeanor citations, to abate violations existing on public or private property, and to use any other remedies available under the Town ordinances and applicable State codes.

2-3.12 NOTICE OF VIOLATION. Whenever the Town determines that a violation of the ordinances or statutes addressed by this Section has occurred or continues to exist, the Town shall serve a Notice of Violation upon the alleged violation by one of the methods describe in **2-3.13 SERVICE OF NOTICES** below. Said notice shall include the following information:

- 1) The name of the property owner,
- 2) The street address, date and approximate time at which the violations were observed,
- 3) Number and title of all Ordinances section violated, and a description of the condition of the property that violates the stated sections,
- 4) All remedial action required to permanently correct outstanding violations, which may include corrections, repairs, demolition, removal or other appropriate action,
- 5) The specific date by which to correct the violations listed in the notice, which date shall be fourteen (14) days from the date of service,
- 6) An explanation of the consequences should the responsible person(s) fail to comply with the terms and deadlines stated in the Notice of Violation, which may include, but are not limited

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to, civil penalties (fines), revocation of permits, withholding of future municipal permits, abatement of the violation, costs, administrative fees, and any other legal remedies,

- 7) An explanation of how the penalty shall be paid,
- 8) That civil penalties will begin to accrue immediately upon expiration of the date identified in the Notice of Violation to correct the violation(s) listed,
- 9) The amount of the civil penalty on each violation and that the penalty will continue to accrue daily until the property is brought into compliance,
- 10) An explanation that payment of an assessed fine shall not excuse the failure to correct the violations, nor shall it bar further enforcement action by the Town,
- 11) That only one Notice of Violation is required to be issued during any twelve (12) month period for violation of a given section of ordinance or statute, and that civil penalties begin to accrue immediately upon the observation of any subsequent violations of the same section of ordinance or statute,
- 12) An explanation of the right to request a hearing on the violation, the procedure for requesting a hearing, the possible outcomes of the hearing process, and the consequences of failure to request a hearing, and
- 13) The signature of the Planning Commission Chairman.

More than one notice of violation may be issued against the same responsible person(s), if the notice encompass different dates or different violations.

2-3.13 SERVICE OF NOTICES. Whenever a notice is required to be given under the provisions of this Section the notice shall be served by at least one of the following methods. The method selected shall be the most direct option practical under the particular circumstances of the violation.

- 1) Service directly to the owner(s) or responsible person(s); or if not practical,
- 2) Service by first class mail, postage prepaid, to the last known address of the owner(s) or responsible person(s); or if not practical,
- 3) Service by posting the notice conspicuously on or in front of the

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property. The form of posted notice shall be as described in section **2-3.12 NOTICE OF VIOLATION** above or if not practical,

- 4) Service by publication in a newspaper of general circulation in Cleveland Town.

The failure of the owner(s) or responsible person(s) to actually receive any notice served in accordance with this Section shall not affect the validity of any proceedings taken under this Section.

2-3.14 REMEDATION PROCESS. Upon service of a Notice of Violation, the responsible person(s) may choose one, and only one, of the following courses of action within a fourteen (14) day grace period:

- 1) Correct the violation as determined upon inspection by the Town or it's agents, and all applicable fines and citations shall be dismissed;
- 2) Submit a written request for a hearing before the Town Council, acting as the Appeal Authority to contest the violation;
- 3) Submit a written request to the Planning Commission for an extension of up to fourteen (14) days for correcting of the violation; or
- 4) Fail to correct the violation, to request a hearing, or to request an extension. This option shall result in daily accrual of fines, beginning at five o'clock p.m. of the fourteenth (14) day. Right to a hearing or extension is forfeited immediately upon expiration of the fourteen (14) day grace period.

2-3.15 FINE RECOVERY PROCESS. Correction of a violation shall not excuse the responsible person(s) from payment of any fines already accrued. Unpaid fines may be recovered by the Town by any legal means. The Town Clerks Office shall give the Town Council written notification of any fines which have not been paid within fourteen (14) days of the first day fines were assessed. The Council may act to pursue recovery by any legal means, including but not limited to:

- 1) Establishing a tax lien against real property owned by the responsible person(s), or
- 2) Obtaining a writ of execution on personal property owned by the responsible person(s), or

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- 3) Obtaining a writ of garnishment on the paychecks, financial accounts and other income of financial assets of the responsible person(s).

2-3.16 LICENSING. Licenses or permits issued in violation of this Section, or based on fraudulent information, are null and void.

2-3.17 APPEALS AND RECONSIDERATION PROCESS. The applicant, staff, or any other person with standing to challenge a decision administering or interpreting this Section may appeal the decision as follows:

- A. ZONING ORDINANCE INTERPRETATION AND ADMINISTRATION.** All Town decisions, which interpret or administer this Section, may be appealed to the proper Appeal Authority within ten (10) days of final action, by filing notice of appeal with the Town Clerk.
- B. DISTRICT COURT REVIEW.** The District Court hears appeals of decisions of the Town Council and Town Attorney while acting as Appeal Authorities that are filed within thirty (30) days of the final decision of the Appeal Authority. See **2-4.1 POWERS AND DUTIES MATRIX**.
- C. STANDING TO APPEAL.** The following persons have standing to appeal a final action:
 - 1) Any person who submitted written comment or testified on a proposal before the Planning Commission;
 - 2) The owner of any property within three hundred (300) feet of the boundary of the subject site;
 - 3) Any Town official, Board or Commission having jurisdiction over the matter;
 - 4) The owner of the subject property.
- D. FORM OF APPEALS.** Appeals must be filed with the Town Clerk and must be by letter or petition, with the name, address, and

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telephone number of the petitioner; his or her relationship to the project or subject property; and a comprehensive statement of the reasons for the appeal, including the specific provisions of law that are alleged to be violated by the action taken.

- E. WRITTEN FINDINGS REQUIRED.** The appellate body shall prepare detailed written Findings of Fact, which explain the circumstances of the body's decision and conclusions of Law in support of its decision.
- F. ACTION ON APPEALS TO A TOWN BODY.** The Town shall comply with the following standards for all appeals under this Section:
- 1) The Town, in consultation with the appellant, shall set a date for the appeal;
 - 2) The Town shall notify the owner of the appeal date;
 - 3) The Town body hearing the appeal shall consider the written appeal, final action and all other pertinent information from the appellant and the Planning Commission.
 - 4) The Town body hearing the appeal may affirm, reverse, or affirm in part and reverse in part any properly appealed decision or may remand the matter with directions for specific areas of review or clarification. Appellate review is limited to consideration of only those matters raised in the written appeal and the staff's responses thereto, unless the body, by motion, enlarges the scope of the appeal to accept information on other matters; and
 - 5) The Town shall prepare written findings for review within thirty (30) calendar days of the appellate decision.
- G. TOWN COUNCIL CALL-UP.** Within fifteen (15) calendar days of final action on any decision, the Town Council, on its own motion,

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may call up for review any final action taken by the Planning Commission. The Town Clerk shall give prompt notice of the call-up to the Chairman of the Planning Commission together with the date set by the Council for consideration of the merits of the matter. The Clerk shall also provide notice as required below. In calling a matter up, the Council may limit the scope of the hearing to certain issues.

H. NOTICE. Notice of all appeals or call-ups shall be given by:

- 1) By mailing courtesy notice ten (10) days prior to the hearing to the applicant and all parties who requested mailed courtesy notice for the original action.

I. STAY OF APPROVAL PENDING REVIEW OF APPEAL. Upon call-up, or appeal, any approval granted by the Planning Commission or staff will be suspended until the reviewing body has taken final action on the appeal.

J. APPEAL FROM THE TOWN COUNCIL. The applicant or any person aggrieved by Town action on the project may appeal from the final action of the Town Council or Town Attorney to a court of competent jurisdiction. The decision shall stand, and those affected by the decision may act in reliance on it unless and until a court enters an interlocutory or final order modifying or suspending the decision.

K. FINALITY OF ACTION. Final action occurs when the deciding body has adopted and executed written Findings of Fact and Conclusions of Law on the matter in question.

2-3.18 CONSTITUTIONAL TAKINGS REVIEW AND APPEAL. To promote the protection of private property rights and to prevent the physical taking or exaction of private property without just compensation, the Town Council and all Commissions and Boards shall adhere to the following before authorizing the seizure or exaction of property:

A. TAKINGS REVIEW PROCEDURE. Prior to any proposed action to exact or seize property, the Town Attorney shall review the proposed action to determine if a constitutional taking requiring “just compensation” would occur. The Town Attorney shall review all

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such matters pursuant to the guidelines established in subsection B below. Upon identifying a possible constitutional taking, the Town Attorney shall, in a confidential, protected writing, inform the Council, commission or board of the possible consequences of its action. This opinion shall be advisory only. No liability shall be attributed to the Town for failure to follow the recommendation of the Town Attorney.

- B. TAKINGS GUIDELINES.** The Town Attorney shall review whether the action constitutes a constitutional taking under the Fifth or Fourteenth Amendments to the Constitution of the United States, or under Article 1, 22 of the Utah Constitution. The Town Attorney shall determine whether the proposed action bears an essential nexus to a legitimate governmental interest and whether the action is roughly proportionate and reasonably related to the legitimate governmental interest. The Town Attorney shall also determine whether the action deprives the private property owner of all reasonable uses of the property. These guidelines are advisory only and shall not expand nor limit the scope of the Town's liability for a constitutional taking.
- C. APPEAL.** Any owner of private property who believes that his/her property is proposed to be "taken" by an otherwise final action of the Town may appeal the Town's decision to the Takings Appeal Board within thirty (30) days after the decision is made. The appeal must be filed in writing with the Town Clerk. The Takings Appeal Board shall hear and approve and remand or reject the Appeal within fourteen (14) calendar days after the appeal is filed. The Takings Appeal Board, with advice from the Town Attorney, shall review the appeal pursuant to the guidelines in subsection B herein. The decision of the Takings Appeal Board shall be in writing and a copy given to the appellant and to the Town Council, Commission or Board that took the initial action. The Takings Appeal Board's rejection of an Appeal constitutes exhaustion of administrative remedies rendering the matter suitable for appeal to a court of competent jurisdiction.
- D. TAKINGS APPEAL BOARD.** There is hereby created a ____3____ member Takings Appeal Board. The Mayor shall appoint ____2____ current members of the Planning Commission and the Town Attorney to serve on the Takings Appeal Board. If, at

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any time, ____2____ members of the Planning Commission cannot meet to satisfy the time requirements stated in subsection C above, the Mayor shall appoint a member or sufficient members to fill the vacancies.

2-3.19 NOTICE MATRIX.

Legal noticing requirements often change, therefore this section shall reference the most recent legal noticing requirements. See The Cleveland Town Clerks office for most recent noticing requirements.

2-4.1 POWERS & DUTIES MATRIX

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2-4.2 TOWN COUNCIL

2-4.2A. APPOINTMENTS

2-4.2B. ADOPT, ENFORCE & AMEND: COMPREHENSIVE PLAN

2-4.2C. ADOPT, ENFORCE & AMEND: OFFICIAL ZONING MAP

2-4.2D. ADOPT, ENFORCE & AMEND: LAND USE ORDINANCE

2-4.2E. ADOPT, ENFORCE & AMEND: SUBDIVISION

ORDINANCE

2-4.3 PLANNING COMMISSION

2-4.3A. PLANNING COMMISSION ESTABLISHED

2-4.3B. PREPARE COMPREHENSIVE PLAN

2-4.3C. PREPARE LAND USE ORDINANCE

2-4.3D. PREPARE SUBDIVISION ORDINANCE

2-4.3E. RECOMMEND AMENDMENTS AND ZONING CHANGES

**2-4.3F. PREPARE REPORTS AND RECOMMENDATIONS &
ENTRY UPON LAND**

2-4.3G. PLANNING COMMISSION AS LAND USE AUTHORITY

2-4.4 APPEAL AUTHORITY

2-4.4A. APPEAL AUTHORITY ESTABLISHED

2-4.4B. HEAR AND DECIDE LAND USE APPEALS

2-4.4B. (i) STANDARD FOR REVIEW OF APPEALS

2-4.4C. HEAR AND DECIDE VARIANCES

2-4.4C. (i) STANDARDS FOR REVIEW OF VARIANCES

2-4.4C. (ii) APPLICANT HAS THE BURDEN OF PROOF

2-4.4C. (iii) VARIANCE RUNS WITH THE LAND

2-4.4C. (iv) USE VARIANCE PROHIBITED

2-4.4C. (v) APPEAL AUTHORITY MAY IMPOSE

ADDITIONAL REQUIREMENTS

2-4.4D. INTERPRET ZONING MAP

2-4.4E. TAKINGS APPEAL BOARD

2-4.4F. DISTRICT COURT REVIEW OF APPEAL AUTHORITY

DECISION

2-4.5 BUILDING OFFICIAL

2-4.5A. ISSUE BUILDING PERMIT

2-4.5B. INSPECTIONS

2-4.6 ZONING ADMINISTRATOR POWERS AND DUTIES

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2-4.1 POWERS & DUTIES MATRIX Below is a matrix outlining the powers and duties of each land use authority and appeal authority.

Decision To Be Made	Advisory Body	Deciding Body	Appellate Body	Time To Appeal
General Plan: Adoption or Amendments	Planning Commission	Town Council	District Court	30 days from final decision
Land Use Ordinance: Adoption or Amendments	Planning Commission	Town Council	District Court	30 days from final decision
Annexation Policy Plan	Planning Commission	Town Council	Town Attorney	30 days from final decision
Annexation Application	Planning Commission	Town Council	Town Attorney	30 days from final decision
Appeal of Administrative Decision		Town Council	District Court	30 days from final decision
Conditional Use Permit		Planning Commission	Town Council	30 days from final decision
Nonconforming Uses Noncomplying Structures		Planning Commission	Town Council	30 days from final decision
Subdivision Ordinance	Planning Commission	Town Council	District Court	30 days from final decision
Subdivision Application and Plat Approval	Planning Commission	Town Council	Town Attorney	30 days from final decision
Vacation or Changing a Subdivision Plat	Planning Commission	Town Council	Town Attorney	30 days from final decision

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Decision To Be Made	Advisory Body	Deciding Body	Appellate Body	Time To Appeal
Variances		Town Council	District Court	30 days from final decision
Amendment to Platted Street	Planning Commission	Town Council	Town Attorney	30 days from final decision
Business License	Planning Commission	Town Council	Town Attorney	30 days from final decision
Building Permit	Planning Commission	Building Official	District Court	30 days from final decision
Permitted Uses		Planning Commission	Town Council	30 days from final decision

2-4.2 TOWN COUNCIL

A. Appointments.

1. **Planning Commission**
The Mayor, with the advice and consent of the Town Council shall appoint a Planning Commission for the Town of Cleveland.

2. **Appeal Authority**
The Mayor, with the advice and consent of the Town Council shall appoint an appeal authority or authorities to hear land-use appeals and variances. By ordinance Cleveland Town may designate a separate appeal authority to hear requests for variances than it designates to hear appeals. Also by ordinance the Town may designate one or more separate appeal authorities to hear distinct types of appeals of land use authority decisions.

3. **Zoning Administrator**
The Town Council may appoint and fix compensation for a Zoning Administrator.

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4. **Planning Administrator**

The Town Council may appoint a Planning Administrator subject to the prior recommendation of the Planning Commission.

B. Adopt, Implement & Amend: Comprehensive Plan

1. **Adoption of Comprehensive Plan**

The Cleveland Town Council shall adopt a Comprehensive Plan. Which shall include elements on: Land Use, Transportation, Affordable Housing. An Annexation Policy Plan shall also be required in order for the Town to annex new property into the Town. The Cleveland Town Council shall also have the power to adopt addendum to the Comprehensive Plan or separate plans that include but are not limited to an: Affordable Housing Plan, Annexation Policy Plan, Capital Improvements Plan, Economic Development Plan.

2. **Implementation of Comprehensive Plan**

The Cleveland Town Council shall be responsible for implementing the goals, objectives and general intent of the Comprehensive Plan. Tools useable for implementing the Comprehensive Plan shall include but are not limited to the following:

- 1) Land-Use Ordinance
- 2) Zoning Map
- 3) Subdivision Ordinance
- 4) Affordable Housing Plan
- 5) Annexation Policy Plan

3. **Amendment of Comprehensive Plan**

From time to time it may become necessary to amend the Comprehensive Plan to better reflect present and future goals and objectives. The Cleveland Town Council shall have the right to amend the Comprehensive Plan, provided that the Planning Commission has reviewed the amendments and made recommendations to the Town Council concerning those amendments and that the proper meetings and hearings have

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been held with proper notice for said meetings and hearings.
(See section: 2-3.19 NOTICE MATRIX of this title).

C. Adopt, Enforce & Amend: Zoning Map

1. **Adoption of Zoning Map**

The Cleveland Town Council shall adopt an official Zoning Map. Which shall be included as part of the Town's Comprehensive Plan.

2. **Enforcement of Zoning Map**

The Cleveland Town Council shall be responsible for enforcing the boundaries of each zoning district and the regulations in each zoning district. If there is dispute as to a zoning boundary it shall be interpreted by the Town Attorney acting as an Appeal Authority.

3. **Amendment of Zoning Map**

From time to time it may be necessary to amend the Zoning Map to better reflect present and future land-use patterns and objectives. The Cleveland Town Council shall have the right to amend the Zoning Map, provided that the Planning Commission has reviewed the map amendments and made its recommendations to the Town Council concerning those amendments and that the proper meetings and hearings have been held with proper notice for said meetings and hearings.
(See section: 2-3.19 NOTICE MATRIX of this title).

D. Adopt, Enforce & Amend: Land Use Ordinance

1. **Adopt Land Use Ordinance**

The Cleveland Town Council shall have the power to adopt all land use controls that it deems necessary to promote the goals and objectives of the Comprehensive Plan and to protect the public's health, safety and welfare. This includes but is not limited to a land use or zoning ordinance.

2. **Enforcement of Land Use Ordinance**

The Cleveland Town Council shall have the power to enforce

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its adopted land use or zoning ordinance and shall act as the Land Use Authority for all of the different types of land use decisions listed above in: **2-4.1 POWERS & DUTIES MATRIX.**

3. **Amendment of Land Use Ordinance**

From time to time it may become necessary for an amendment to be made to the Cleveland Town Land Use Ordinance. The Cleveland Town Council shall have power to amend the Cleveland Town Land Use Ordinance provided that the Planning Commission has reviewed the proposed amendments and made its recommendations to the Town Council concerning those amendments and that the proper meetings and hearings have been held with proper notice for said meetings and hearings. (See section: **2-3.19 NOTICE MATRIX**).

E. Adopt, Enforce & Amend: Subdivision Ordinance

1. **Adopt Subdivision Ordinance**

The Cleveland Town Council shall have the power to adopt all land use controls that it deems necessary to promote the goals and objectives of the Comprehensive Plan and to protect the public's health, safety and welfare. This includes but is not limited to the adoption of a subdivision ordinance.

2. **Enforcement of Subdivision Ordinance**

The Cleveland Town Council shall have the power to enforce its adopted Subdivision ordinance and shall act as the Land Use Authority for all of the different types of land use decisions listed above in: **2-4.1 POWERS & DUTIES MATRIX.**

3. **Amendment of Subdivision Ordinance**

From time to time it may become necessary for an amendment to be made to the Cleveland Town Subdivision Ordinance. The Cleveland Town Council shall have power to amend the Cleveland Town Subdivision Ordinance provided that the Planning Commission has reviewed the proposed amendments and made its recommendations to the Town Council concerning those amendments and that the proper meetings and hearings

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have been held with proper notice for said meetings and hearings (**See section: 2-3.19 NOTICE MATRIX**).

2-4.3 PLANNING COMMISSION

A. PLANNING COMMISSION ESTABLISHED

1. Establishment - Composition - Appointment of Members

- a) Pursuant to authority granted in The State of Utah Land Use Development and Management Act, as amended the Cleveland Town Council hereby creates a Planning Commission within and for the Town to be known as the Cleveland Town Planning Commission.
- b) Such Commission shall consist of six (6) members, one of which shall be a Town Council member, that shall not be a voting Planning Commission Member. The other five (5) members shall be appointed by the Mayor with consent of the Town Council from among registered voters of the Town.
- c) The members shall be selected without respect to political affiliations and shall serve without compensation except for reasonable expenses.

2. Terms of Office of Members - Filling Vacancies - Removal of Members

- a) The terms of office for the Town Council member designated to serve as a member of the Planning Commission shall correspond to their tenure of office. The terms of office for the appointive members of the Planning Commission shall be two, four and six years, to be arranged as follows: Two shall be appointed for two years, two shall be appointed for four years, and two shall be appointed for six years.
- b) Vacancies occurring otherwise than through the expiration of terms shall be filled by appointment of the Mayor with consent of the Town Council.
- c) Members may be removed from office after public hearing by a majority vote of the Town Council.

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3. **Organization - Adoption of Rules - Record of Proceedings**

The Planning Commission shall elect a chairman from its membership and shall adopt rules for its own organization and for the transaction of its business not in conflict with this section or any other local, state or federal law. The Planning Commission shall be required to keep a record of its proceedings as detailed in Utah State law.

4. **Employees -Expenditures**

The Planning Commission may make recommendations to the Town Council regarding the appointment of a Planning Administrator. The Planning Commission may also appoint such other employees and staff as it may deem necessary for its work and may contract with Town planners and other consultants provided its expenditures shall be within the amounts appropriated for that purpose by the Town Council.

B. PREPARE COMPREHENSIVE PLAN

1. It shall be the function and duty of the Planning Commission, after holding public hearings, to create, adopt and certify to the Town Council, a recommended Comprehensive Plan for the physical development of the Town including any areas outside of its boundaries, which in the Commissions judgment, bear relation to the planning of the Town. Where the plan involves territory outside the boundaries of the Town, action shall be taken with the concurrence of the county or other municipal legislative bodies concerned.

2. The Comprehensive Plan, with its accompanying maps, plats, charts and descriptive and explanatory material, shall show the Planning Commission's recommendations for the said physical development and shall include among other things:

- a) Transportation and Circulation Element.
- b) Land use Element
- c) Annexation Element

C. PREPARE LAND USE ORDINANCE

1. It shall be the function and duty of the Planning Commission, after holding public hearings, to create, adopt and certify to the

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Town Council, a recommended Land Use Ordinance to guide the physical development of the Town and to aid the Town, in meeting goals and objectives set forth in the Cleveland Town Comprehensive Plan.

2. The Land Use Ordinance shall separate the Town into distinct zoning districts that shall each have their own regulations to guide development in their respective districts.

D. PREPARE SUBDIVISION ORDINANCE

1. It shall be the function and duty of the Planning Commission, after holding public hearings, to create, adopt and certify to the Town Council, a recommended Subdivision Ordinance to guide the physical development of large-scale development within the Town. The Subdivision Ordinance shall hold to the spirit of the Cleveland Town Comprehensive Plan and shall aid the Town, in meeting goals and objectives set forth in the Cleveland Town Comprehensive Plan.
2. The Subdivision Ordinance shall provide distinct regulations for the development of: Residential Subdivisions, Large Scale Developments, Non-Residential Subdivisions, Condominium Projects, Planned Unit Developments (PUD), mobile home parks, recreational vehicle courts.

E. RECOMMEND AMENDMENTS AND ZONING CHANGES

1. It shall be the function and duty of the Planning Commission, after holding public hearings, to make recommendations to the Town Council for amendments and zone changes.
 - a) The Planning Commission shall make recommendations to the Town Council for: Comprehensive Plan amendments, Land Use Ordinance amendments, Subdivision Ordinance amendments, and Zoning changes.

F. PREPARE REPORTS AND RECOMMENDATIONS & ENTRY UPON LAND

1. It shall be the function and duty of the Planning Commission to

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prepare reports and recommendations to the Town Council concerning all land use decisions for which the Planning Commission has acted as an advisory body to the Town Council. See above the: **2-4.1 POWERS & DUTIES MATRIX**. The Planning Commission may also recommend to the executive or legislative officials programs for public improvements and the financing thereof.

2. The Planning Commission, its members, and employees, in performance of its functions, may enter upon any land at reasonable times to make examinations and surveys and place and maintain necessary monuments and marks thereon.

G. PLANNING COMMISSION AS LAND USE AUTHORITY
The Cleveland Town Planning Commission shall act as the Land Use Authority on all the land use decisions listed above in: **2-4.1 POWERS & DUTIES MATRIX**.

2-4.4 APPEAL AUTHORITY

A. APPEAL AUTHORITY ESTABLISHED

1. An Appeal Authority is hereby established in the Town of Cleveland, Utah and the Cleveland Town Council shall hereby be established as the Appeal Authority for the Town of Cleveland, and shall have the power to act on all appeals and variances of all land use decisions in which, the Town Council or any of its members was not already a land use authority. **See 2-4.1 POWERS & DUTIES MATRIX.**
2. An Appeal Authority is hereby established in the Town of Cleveland, Utah and the Town attorney for the Town of Cleveland, Utah shall act as the Appeal Authority on all land use decisions which are listed above in: **2-4.1 POWERS & DUTIES MATRIX.**

B. HEAR AND DECIDE LAND USE APPEALS

It shall be the power and duty of the Appeal Authority to hear and decide only land use appeals pertaining to this Title. A person may not appeal, and the Appeal Authority may not consider, any zoning

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ordinance amendments. Appeals may not be used to waive or modify the terms or requirements of the land use ordinance.

1. STANDARDS FOR REVIEW OF APPEALS

- a) An applicant, a board or officer of the municipality, or any person adversely affected by a Cleveland Town land use authority's decision administering or interpreting this Title may, appeal that decision to the Appeal Authority by alleging that there is an error in any order, requirement, decision, or determination made by the land use authority in the administration or interpretation of this Title.
- b) The person or entity making the appeal has the burden of proving that an error has been made in administering this Title.
- c) It shall be required of an adversely affected party to present to the Appeal Authority every theory of relief that it can raise in district court. The Appeal Authority shall determine the correctness of a decision of the land use authority in its interpretation and application of the Town's land use ordinances. **(See section: 2-3.17 APPEALS AND RECONSIDERATION PROCESS)**
- d) An appeal filed in accordance with this section stays all proceedings in the appeal action, unless the officer from whom the appeal is taken certifies to the Appeal Authority that by reason of facts stated in the certificate the stay would in his/her opinion cause imminent peril to life or property. In such cases, proceedings shall not be stayed otherwise than by restraining order which may be granted by the Appeal Authority or by the district court on application and notice and on due cause

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shown.

- e) The Appeal Authority shall fix the time for hearing any appeal within thirty (30) days of the date of filing such appeal with the Town Clerk and shall give public notice thereof in accordance with Utah Open and Public Meetings Act, as well as notice to the parties in interest. **(See also section: 2-3.19 NOTICE MATRIX for noticing requirements)**
- f) Proceedings and hearings before the Appeal Authority shall be had pursuant to rules adopted by the Town Council and in conformance with general principles of due process. Any party in interest may appear at such hearing in person, by agent, or by an attorney of his/her choice.

C. HEAR AND DECIDE VARIANCES

Any person or entity desiring a waiver or modification of the requirements of a land use ordinance as applied to a parcel of property that he owns, leases, or in which he holds some other beneficial interest may apply to the Appeal Authority for a variance from the terms of the ordinance **(See section: 2-3.19 NOTICE MATRIX for noticing requirements)**.

1. STANDARDS FOR REVIEW OF VARIANCES

The Appeal Authority may grant a variance only if **all** of the following are met:

- a) Literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances;
 - (i) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship, the appeal authority may not find an unreasonable hardship if the

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hardship is self-imposed or economic. An unreasonable hardship shall not be found unless the alleged hardship:

- (1) is located on or associated with the property for which the variance is sought; and
 - (2) comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.
- b) There are special circumstances attached to the property that do not generally apply to other properties in the same zone;
 - (i) In determining whether or not there are special circumstances attached to the property, the appeal authority may find that special circumstances exist only if the special circumstances:
 - (1) relate to the hardship complained of; and
 - (2) deprive the property of privileges granted to other properties in the same zone
- c) Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;
- d) The variance will not substantially affect the general plan and will not be contrary to the public interest; and
- e) The spirit of the land use ordinance is observed and substantial justice done.

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2. **APPLICANT HAS THE BURDEN OF PROOF**

The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.

3. **VARIANCE RUNS WITH THE LAND**

It shall be noted that a variance runs with the land and not the applicant.

4. **USE VARIANCE PROHIBITED**

In no circumstance shall the Appeal Authority grant a use variance.

5. **APPEAL AUTHORITY MAY IMPOSE ADDITIONAL REQUIREMENTS**

In granting a variance, the Appeal Authority may impose additional requirements on the applicant that will:

- a) mitigate any harmful affects of the variance; or
- b) serve the purpose of the standard or requirement that is waived or modified.

D. INTERPRET ZONING MAP

The Town Attorney acting as the Appeal Authority shall have the power to interpret the zoning map in the event that a disputation occurs. If a zone boundary is approximately at a street, property line or right of way the zone boundary shall be considered that street, property line or right of way. If further interpretation is needed then the scale on the official zoning map shall be used. Any further disputation as to a zoning boundary shall be decided by the discretion of the acting Appeal Authority.

E. TAKINGS APPEAL BOARD

There is hereby created a Takings Appeal Board. The Cleveland Town Attorney along with two (2) Planning Commission members shall serve as the Takings Appeal Board. If at any time there is not a sufficient number of Planning Commission members to act as the Takings Appeal Board the Mayor shall appoint a member or members

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to fill the vacancies. (See section: 2-3.18 CONSTITUTIONAL TAKINGS REVIEW AND APPEAL).

F. DISTRICT COURT REVIEW OF APPEAL AUTHORITY DECISION

1. Any person adversely affected by any decision of the Appeal Authority may petition the district court for a review of the decision.
2. In the petition, the plaintiff may only allege that the Appeal Authority's decision was arbitrary, capricious, or illegal.
3.
 - a) The petition is barred unless it is filed within thirty (30) days after the Appeal Authority's decision is final.
 - b) The time under (3) a) to file a petition is tolled from the date a property owner files a request for arbitration of a constitutional taking issue with the private property ombudsman under Section 63-34-13, (Utah Code Annotated 1953 as amended) until thirty (30) days after:
 - (1) the arbitrator issues a final award; or
 - (2) the private property ombudsman issues a written statement under Section 63-34-13(4)(b), (Utah Code Annotated, 1953 as amended) declining to arbitrate or to appoint an arbitrator.
 - c) A tolling under Subsection (3) b)(i) operates only as to the specific constitutional taking issues that are subject of the request for arbitration filed with the private property ombudsman by a property owner.
 - d) A request for arbitration filed with the private property ombudsman after the time under Subsection (3) a) to file a petition has expired does not affect the time to file a petition.

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4.
 - a) The Appeal Authority shall transmit to the district court the record of its proceedings including its minutes, findings, orders and, if available, a true and correct transcript of its proceedings.
 - b) If the proceeding was recorded, a transcript of that recording is a true and correct transcript for purposes of this subsection.
5.
 - a)
 - (i) If there is a record, the district court's review is limited to the record provided by the Appeal Authority.
 - (ii) The court may not accept or consider any evidence outside the Appeal Authority's record unless that evidence was offered to the Appeal Authority and the court determines that it was improperly excluded by the Appeal Authority.
 - b) If there is no record, the court may call witnesses and take evidence.
6. The court shall affirm the decision of the Appeal Authority if the decision is supported by substantial evidence in the record.
7.
 - a) The filing of a petition does not stay the decision of the Appeal Authority.
 - b)
 - (i) Before filing a petition under this section or a request for mediation or arbitration of a constitutional taking issue under Section 63-34-13, (Utah Code Annotated 1953 as amended), the aggrieved party may petition the Appeal Authority to stay its decision.
 - (ii) Upon receipt of a petition to stay, the Appeal Authority may order its decision stayed pending district court review if the Appeal Authority finds it to be in the best interest of the Town.
 - (iii) After a petition is filed under this section or a request for mediation or arbitration of a constitutional taking issue is

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filed under Section 63-34-13, (Utah Code Annotated, 1953 as amended), the petitioner may seek an injunction from the district court staying the Appeal Authority's decision.

2-4.5 BUILDING OFFICIAL

A. ISSUE BUILDING PERMIT

It shall hereby be the power and duty of the Town Building Official to issue building permits for the construction of buildings and structures within the Town of Cleveland. Such permit shall not be issued until after the Planning Commission has reviewed the application for a building permit and has determined that the building or structure being applied for is in conformance with all Town land use ordinances and codes or that a variance has been obtained from the Appeal Authority for the construction of the building or structure.

B. INSPECTIONS

1. The Town Building Official shall have the right to inspect any building or structure within the Town of Cleveland, provided that said inspection is done at a reasonable hour and the property owner has been notified.
2. All fees and costs associated with an inspection of a property, building, structure or development shall be the responsibility of the property owner in who's property, building, structure or development is being inspected. The Town of Cleveland shall bear the responsibility of all inspections that are specifically requested by the Town, except such inspections that are considered mandatory in the normal construction phase of any building, structure or development.

2-4.6 ZONING ADMINISTRATOR

The Cleveland Town Zoning Administrator shall act as the Land Use Authority on all the land use decisions listed above in: **2-4.1 POWERS & DUTIES MATRIX.**

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Section 2-5: Zoning Districts & Parking Standards

2-5 (A) ESTABLISHMENT OF ZONES

2-5 (B) FILING OF CODE AND MAP

2-5 (C) RULES FOR LOCATING BOUNDARIES

2-5 (D) AUTHORIZED USES WITHIN DISTRICTS

2-5 (E) PARKING STANDARDS

2-5 (A) ESTABLISHMENT OF ZONES: For the purposes of this code the territory of Cleveland Town which has adopted this code is divided into one or more of the following listed districts as shown on the attached zoning map(s)

1. Agricultural Zone District, A-1 (Section 2-5-1)
2. Residential Zone District, R-1 (Section 2-5-2)
3. Commercial Zone District, C-1 (Section 2-5-3)
4. Industrial Zone District, I-1 (Section 2-5-4)

2-5 (B) FILING OF CODE AND MAP: This code and map or maps shall be filed in the custody of the Cleveland Town Clerk and may be examined by the public subject to the reasonable regulations established by said Town Clerk.

2-5 (C) RULES FOR LOCATING BOUNDARIES: Where uncertainty exists as to the boundary of any zoning district, the following rules shall apply:

1. Whenever the district boundary is indicated as being approximately upon the centerline of a street, alley, or block, or along a property line, then, unless otherwise definitely indicated on the map, the centerline of such street, alley, block or such property line shall be construed to be the boundary of such zoning district.
2. Whenever such boundary line of such zoning district is indicated as being approximately at the line of any river, irrigation canal or other waterway, or railroad right-of-way, or public park or other public land, or any section line, then in such case the center of such river or stream, canal or waterway, or of such railroad right-of-way, or the boundary line of such public land or such section line shall be deemed to be the boundary of such zoning district.

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3. Where such zoning district boundary lines cannot be determined by the above rules, their location may be found by the use of the scale appearing on the map.
4. Where the application of the above rules does not clarify the zoning district boundary location, the Planning Commission shall interpret the map.

2-5 (D) AUTHORIZED USES WITHIN DISTRICTS: The uses of land permitted in each zoning district shall be permitted and uses of land not specifically permitted as set forth therein shall be prohibited in the respective zoning district.

2-5 (E) PARKING STANDARDS

Curb, gutter, sidewalk and adequate off-street parking, shall be required as part of any building, structure, and use established in all zones.

1. All off-street parking spaces shall be graded and graveled.
2. Off-street loading and unloading space shall be provided on the same lot for every building used for manufacturing, storage, warehousing, goods display, department store, grocery, hotel hospital, mortuary, laundry, dry-cleaning, or other use similarly involving the receipt or distribution by vehicle of materials or merchandise. Such space, unless otherwise adequately provided shall include a minimum ten (10') feet by twenty-five (25') feet loading space with a minimum fourteen (14') feet height clearance for every twenty thousand (20,000) square feet of floor space in the building or fraction thereof.
3. Driveways shall be no more than twenty (20') feet in width except when approved for large-scale developments.
4. On corner lots, no driveways shall be closer than fifteen (15') feet to the point of intersection of the front property line with the side property line, which abuts upon a street.
5. Where there is no existing curb, gutter or sidewalk, a curb gutter, sidewalk or and combination thereof may be required by the Town.

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6. The Planning Commission may approve substitute parking locations and may reduce the amount of off-street parking required if:
- a. sufficient off-street parking is readily available within the vicinity;
 - b. uses can share parking at different times of the day; and/or
 - c. where acquisition of land for such use, is unnecessary, in order to carry out the spirit of this Ordinance.

Parking Space requirements. Parking spaces shall be in accordance with requirements shown below;

- A. **Required number of stalls.** The off-street parking spaces required for each use permitted by this code shall not be less than that found in **Table 2-5(E)** below, provided that fractional spaces be computed as a whole space.

Table 2-5(E) Off-Street Parking Schedule	
Use	Number Of Parking Spaces Required
Assembly	1 per 300 gross square feet
Assisted Living/Rest Homes	1 per staff member plus 1 per 4 living units
Dwelling Unit	2 per dwelling unit
Recreation	1 per 100 gross square feet
Hotel/Motel	1 per sleeping unit plus 1 per 500 square feet of common area
Manufacturing	1 per 500 gross square feet
Professional Office	1 per 200 gross square feet
Restaurant	1 per 100 gross square feet
Retail Commercial	1 per 200 gross square feet
School	1 per 3.5 seats in assembly rooms plus 1 per faculty member
Service Establishments	1 per 200 gross square feet
Warehouse	1 per 500 gross square feet

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- b. **Combination of uses.** Where there is a combination of uses on a lot, the required number of parking spaces shall be the sum of that found for each use.
- c. **Location of lot.** The parking spaces required by this code shall be provided on the same lot as the use or where the exclusive use of such is provided on another lot not more than 500 feet radially from the subject lot within the same or less-restrictive zoning district.
- d. **Shared and on-street parking permitted.** Uses shall be allowed to share parking, provided that there is sufficient parking spaces for each use during peak usage times. On-street parking spaces abutting the lot in which the use is located shall be permitted as part of the required off-street parking spaces.
- e. **Accessible spaces.** Accessible parking spaces and passenger loading zones shall be provided in accordance with the building code.

B. Parking Stall Dimension. Parking stall dimensions shall be in accordance with Sections **2-5(E)(B)(i)** and **2-5(E)(B)(ii)**.

- i. **Width.** A minimum width of nine (9) feet shall be provided for each parking stall.
Exceptions:
 - a) Parallel parking stalls shall be permitted to be eight (8) feet wide.
 - b) The width of a parking stall shall be increased ten (10) inches for obstructions located on either side of the stall within fourteen (14) feet of the access aisle.
 - c) Accessible parking spaces shall be designed in accordance with adopted building codes.
- ii. **Length.** A minimum length of eighteen (18) feet shall be provided for each parking stall.
Exceptions:
 - a) Parallel parking stalls shall be a minimum of twenty-two (22) feet in length.

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- C. **Design of Parking Facilities.** The design of parking facilities shall be in accordance with Sections **2-5(E)(C)(i)** through **2-5(E)(C)(v)** below.
- i. **Driveway Width.** Every parking facility shall be provided with one or more access driveways, the width of which shall be the following:
 - a) Private driveways at least nine (9) feet in width.
 - b) Commercial driveways:
 - 1. Twelve (12) feet for one-way enter/exit.
 - 2. Twenty-four (24) feet for two-way enter/exit.
 - ii. **Driveway and Ramp Slope.** The maximum slope of any driveway or ramp shall not exceed 20 percent. Transition slopes in driveways and ramps shall be provided in accordance with the standards set by the building inspector and Town engineer.
 - iii. **Stall Access.** Each required parking stall shall be individually and easily accessed. No automobile shall be required to back onto a public street or sidewalk to leave any parking stall when such stall serves three (3) or more dwelling units or uses other than residential uses. All portions of a public lot or garage shall be accessible to other portions thereof without requiring the use of a public street.
 - iv. **Striping.** All parking stalls shall be striped.
Exception: A private garage or parking area for the exclusive use of a single family dwelling.
 - v. **Lighting.** All lights illuminating a parking area shall be designed and located so as to reflect away from any street or adjacent property.

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Section 2-5-1: Agricultural Zoning District (A-1)

2-5-1.1 INTENT

2-5-1.2 USE TABLE

2-5-1.3 DEVELOPMENT STANDARDS

2-5-1.4 PERFORMANCE STANDARDS

2-5-1.5 CLEAR VIEW OF INTERSECTING STREETS AND DRIVEWAYS

2-5-1.6 FENCES/WALLS/HEDGES

2-5-1.7 LANDSCAPING

2-5-1.8 SIGNS

2-5-1.1 INTENT. The A-1 Agricultural Zone covers the portions of the town, which is primarily suited for single-family residential development in association with a limited amount of agricultural activity, including the keeping of livestock. This zone is characterized by spacious lots, un-crowded buildings, and quiet residential conditions. Owners and developers of property within this zone should bear in mind that the proximity of livestock to dwellings is an integral part of the zone and should occupy residences in recognition thereof.

2-5-1.2 USE TABLE. The following buildings, structures and uses of land shall be permitted or conditionally permitted upon compliance with the requirements set forth in this Code. If a use is not specifically designated then it is prohibited.

Use	Permitted Use	Conditional Use	Business License
Agriculture	X		
Barns, sheds and agricultural accessory buildings	X		
Bed and Breakfast		X	X
Child Care Facility		X	X
Churches		X	
Fences, walls and hedges	X		
Group Homes	X		X
Home Child Care Center		X	X
Home Occupations		X	X
Household pets	X		

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Use	Permitted Use	Conditional Use	Business License
Kennels		X	X
Livestock	X		
Minor Utility transmission projects		X	
Preschools		X	X
Private Roads		X	
Private Schools		X	X
Public schools, buildings, and grounds	X		
Public agency parks and playgrounds	X		
Quasi-Public Schools (i.e. charter)		X	X
Religious Institutions		X	
Residential Subdivision		X	
Residential accessory structures	X		
Single Family Dwellings	X		
Small Wind Energy Device		X	
Small Neighborhood Commercial		X	X
Solar Energy System		X	
Subdivision of Property	X		
Temporary signs	X		

2-5-1.3 Development Standards. All structures shall be set back no less than thirty (30) feet from any street. Except that on corner lots with garages or carports attached to the main building the setback may be reduced to a minimum of twelve (12) feet provided that the twenty five (25) foot sight view triangle is not obstructed. See section **2-5-1.5 CLEAR VIEW OF INTERSECTING STREETS AND DRIVEWAYS** below. The minimum frontage for any lot shall be equal one hundred twenty (120) feet. Except that the frontage of any lot may be reduced to sixty (60) feet when:

1. The lot is included as a “flag lot” within a subdivision approved in accordance with the applicable regulations of the town, and provided

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Section 2-5-1: Agricultural Zoning District (A-1)

the portion of the lot, exclusive of the driveway, is not less than the minimum width and area requirement of the zone.

2. The lot fronts upon a cul-de-sac or curve in a designated town street and the lot lines radiate in such a manner that the width of the lot will meet or exceed the minimum width requirements of the zone at a distance of sixty (60) feet from the front setback line as measured along the side lot line.

A. Accessory Buildings. All accessory buildings shall be setback not less than five (5) feet from the side or rear lot lines.

B. Accessory Buildings on Corner Lots. The setback for accessory buildings abutting a street on corner lots shall not be less than thirty (30) feet except that the setback may be reduced to a minimum of twelve (12) feet provided that the twenty five (25) foot sight triangle is not obstructed. See section **2-5-1.5 CLEAR VIEW OF INTERSECTING STREETS AND DRIVEWAYS** below.

C. Determining Height of buildings and structures. Height is measured from the finished grade to the square of the building. Uneven heights in ground or building shall use the average elevation thereof. Roofs, chimneys, flagpoles, television antennae, church towers, and similar structures not used for human occupancy shall be excluded in determining height.

D. Size of Dwellings. The ground floor area of any one-family dwelling shall not be less than seven hundred fifty (750) square feet of living area exclusive of open porches, carports, garages and similar add-ons.

E. Width of Dwellings. The total length or total width of any dwelling or church shall not be less than twenty four (24) feet as measured from outside wall to outside wall. Exclusive of any carport, garage, shed or similar add on.

Use	Lot Size	Frontage	Setbacks	Height Restrictions
Single dwelling unit	20,000 sq. ft.	120' may be reduced to minimum of 60' see above	Interior Lots: Front: 30' Side: Minimum: 8' Total two sides: 20' Rear: 30'	Maximum of 30' or two stories whichever is greater.

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Section 2-5-1: Agricultural Zoning District (A-1)

Use	Lot Size	Frontage	Setbacks	Height Restrictions
			Corner lots: Front abutting a street: 30' Interior side: 8' Side abutting a street and Rear: 30' may be reduced to 12' for garages and carports see above	
Accessory Building			From Main Building: 10' Side: 5' Rear: 5' Corner lots: Side abutting street: 30' may be reduced to 12' see above	Maximum of 20' or two stories whichever is greater.
Barns and Agricultural Accessory Buildings			From any dwelling: 50' Side: 10' Rear: 10' Corner lots: Side abutting street: 30'	Maximum of 20' or two stories whichever is greater.
Churches and Schools	1 acre	120'	Front: 30' Side: Minimum 8' Total two sides: 20' Rear: 30'	Maximum of 30' or two stories whichever is greater.

2-5-1.4 Performance Standards. The following special provisions shall apply to uses within this zone:

1. The space required around buildings and structures shall be kept free from refuse and debris.

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Section 2-5-1: Agricultural Zoning District (A-1)

2. All buildings used for human occupancy shall be furnished with a public water supply and shall be constructed in accordance with the adopted building, plumbing, electrical and fire prevention codes.
3. All buildings and uses within this zone shall comply with all applicable supplementary regulations.
4. At least fifty percent (50%) of the area contained within a required front yard or side yard adjacent to a street shall be landscaped.

2-5-1.5 CLEAR VIEW OF INTERSECTING STREETS AND DRIVEWAYS

1. In all zones which require a front setback, obstructions which will not afford automobile drivers a clear view of approaching vehicles or pedestrians at street intersections shall be prohibited within a triangular area formed by the street property lines and a line connecting them at points twenty-five (25') feet from the point of intersection of said street lines.
2. Such obstructions which will not afford automobile drivers a clear view of approaching vehicles or pedestrians at driveway entrances shall likewise be prohibited within a triangular area formed by the street property line and the edge of the driveway, with a line connecting them at points twenty-five (25') feet from the point of intersection of the driveway and the street.
3. All driveways and roadways fronting on or intersecting with State Highway 155 shall prohibit all obstructions which will not afford automobile drivers a clear view of approaching vehicles or pedestrians within a triangular area formed by the State Highway 155 street line and the intersecting street line or edge of the driveway, with a line connecting them at points forty-five (45') feet from the point of intersection of State Highway 155 and the street or driveway.

2-5-1.6 FENCES, WALLS AND HEDGES:

1. No fence, wall or continuous hedgerow within the front setback from any street as required in the applicable zone shall exceed a height of four (4') feet. Fences, walls, and hedgerows at greater than the required minimum setback distance may be constructed to a height not to exceed eight (8') feet. Under no circumstance shall any fence, wall or hedgerow be permitted which is in violation of section **2-5-1.5 CLEAR VIEW OF INTERSECTING STREETS AND DRIVEWAYS** above.
2. All fences and walls shall be constructed of substantial material and the design and construction shall be consistent with the quality of dwellings and

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other improvements within the surrounding area. Constructions of fences or walls which exceed six (6') feet in height shall be subject to the standards and requirements of the International Building Code as adopted by Cleveland Town.

2-5-1.7 LANDSCAPING

1. Front yards and side yards of all buildings which front on public streets must be landscaped except that up to fifty (50%) percent of the front or side yard which faces on a public street may be devoted to driveways and off-street parking.
2. On lots where front and side yards are not required, no landscaping shall be required.

2-5-1.8 SIGNS

1. **Setback.** All permanent signs, including billboards and advertising signs shall be set back from public streets a distance at least equal to the distance that buildings are required to be set back, except that canopy signs, projecting signs, marquee signs, and awning signs may project into the required setback as stated in **Chapter 2-8** of this code.
2. **Screening Requirements.** Except in those zones where billboards are specifically permitted, all signs shall display thereon copy and images pertaining only to products or services sold on premises.
3. **Permits Required.** No billboard or advertising sign shall be erected or placed within the town, without first making application for and obtaining a building permit therefore. In addition, all signs located within six hundred, sixty (660') feet of the right-of-way line of a federally designated highway shall conform to the standards and regulations for such signs established by the State of Utah. Any approval or permits required by said regulations shall be in addition to the building permit herein above required and construction or placement of a sign shall not be commenced until all approvals and permits have been obtained.

Chapter 2: Zoning Ordinance

Section 2-5-2: Residential Zoning District, R-1

2-5-2.1 INTENT

2-5-2.2 USE TABLE

2-5-2.3 DEVELOPMENT STANDARDS

2-5-2.4 PERFORMANCE STANDARDS

2-5-2.5 CLEAR VIEW OF INTERSECTING STREETS AND DRIVEWAY

2-5-2.6 FENCES/WALLS/HEDGES

2-5-2.7 LANDSCAPING

2-5-2.8 SIGNS

2-5-2.1 INTENT:

The R-1 Residential zone covers the portion of the town which is primarily suited for residential development represented by a co-mingling of one-family, two-family, and multi-family dwellings, plus parks, playgrounds, schools, churches, and other community facilities designed to serve the residents of the zone. This zone is characterized by spacious lots, un-crowded buildings, and quiet residential conditions which are favorable to the rearing of children. Owners and developers of property within this zone should bear in mind that primacy is given to residential development and maintain their properties in recognition thereof.

2-5-2.2 USE TABLE: The following buildings, structures and uses of land shall be permitted or conditionally permitted upon compliance with the requirements set forth in this Code. If a use is not specifically designated then it is prohibited.

Use	Permitted Use	Conditional Use	Business License
Agriculture	X		
Bed and Breakfast		X	X
Agricultural Accessory Structures	X		
Churches		X	
Dwelling			
• Multi-Family		X	
• Single Family	X		
• Two Family		X	

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Section 2-5-2: Residential Zoning District, R-1

Use	Permitted Use	Conditional Use	Business License
Electrical Substations		X	
Fences, walls and hedges	X		
Group homes	X		X
Home Child Care Centers		X	X
Home Occupations		X	X
Household pets	X		
Livestock Accessory Structures		X	
Livestock		X	
Planned Unit Developments		X	
Private Roads		X	
Private Schools		X	X
Public schools, buildings, and grounds	X		
Public agency parks and playgrounds	X		
Public Buildings and Structures	X		
Quasi-Public Schools (i.e. charter)		X	X
Religious Institutions		X	
Residential accessory structures	X		
Residential Subdivision	X		
Rest homes & Nursing Homes		X	X
Small Neighborhood Commercial		X	X
Small Wind Energy Device		X	
Solar Energy System		X	
Subdivision of Property	X		
Temporary building or yard, Temporary occupancy of a dwelling		X	

Chapter 2: Zoning Ordinance

Section 2-5-2: Residential Zoning District, R-1

Use	Permitted Use	Conditional Use	Business License
Temporary signs	X		

2-5-2.3 Development Standards. All structures shall be set back no less than thirty (30) feet from any street. Except that on corner lots with garages or carports attached to the main building the setback may be reduced to a minimum of twelve (12) feet provided that the twenty five(25) foot sight triangle is not obstructed. See section **2-5-2.5 CLEAR VIEW OF INTERSECTING STREETS AND DRIVEWAYS** below. The minimum frontage for any lot shall be equal seventy five (75) feet. Except that the frontage of any lot may be reduced to twenty five (25) feet when:

1. The lot is included as a “flag lot” within a subdivision approved in accordance with the applicable regulations of the town, and provided the portion of the lot, exclusive of the driveway, is not less than the minimum width and area requirement of the zone.
2. The lot fronts upon a cul-de-sac or curve in a designated town street and the lot lines radiate in such a manner that the width of the lot will meet or exceed the minimum width requirements of the zone at a distance of sixty (60) feet from the front setback line as measured along the side lot line.
3. The lot is land locked and has no dedicated public street that can access the property except through a private drive or easement granted by necessary property owners. Said private drive or easement shall not service more than 1 or 2 separate parcels and shall not extend more than 200 feet, after which the width of the lot will meet or exceed the minimum width requirements of the zone at a distance of sixty (60) feet from the front setback line as measured along the side lot line.

A. Accessory Buildings. All accessory buildings shall be setback not less than five (5) feet from the side or rear lot lines.

B. Accessory Buildings on Corner Lots. The setback for accessory buildings abutting a street on corner lots shall not be less than twenty five (25) feet except that the setback may be reduced to a minimum of twelve (12) feet provided that the twenty five (25) foot

Chapter 2: Zoning Ordinance

Section 2-5-2: Residential Zoning District, R-1

sight triangle is not obstructed. See section **2-5-2.5 CLEAR VIEW OF INTERSECTING STREETS AND DRIVEWAYS** below.

C. Determining Height of buildings and structures. Height is measured from the finished grade to the square of the building. Uneven heights in ground or building shall use the average elevation thereof. Roofs, chimneys, flagpoles, television antennae, church towers, and similar structures not used for human occupancy shall be excluded in determining height.

D. Size of Dwellings. The ground floor area of any one-family dwelling shall not be less than seven hundred fifty (750) square feet of living area exclusive of open porches, carports, garages and similar add-ons.

E. Width of Dwellings. The total length or total width of any dwelling or church shall not be less than twenty four (24) feet as measured from outside wall to outside wall. Exclusive of any carport, garage, shed or similar add on.

Use	Lot Size	Frontage	Setbacks	Height Restrictions
Single Family Dwelling or Religious Institution (excluding churches)	7,500 sq. ft.	(75') measured 30 feet back from the property line	Interior Lots: Front: 30' Side: Minimum: 8' Total two sides: 20' Rear: 25' Corner lots: Front and side abutting a street: 30' Interior side: 8'	Maximum of (30') or two stories whichever is greater.

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Section 2-5-2: Residential Zoning District, R-1

Use	Lot Size	Frontage	Setbacks	Height Restrictions
Two Family and Multi-Family Dwelling Units	7,500 sq. ft. plus 1000 sq. ft for each additional dwelling unit	(75') measured 30 feet back from the property line	Interior Lots: Front: 30' Side: Minimum: 8' Total two sides: 20' Rear: 25' Corner lots: Front and side abutting a street: 30' Interior side: 8'	Maximum of (30') or two stories whichever is greater.
Accessory Building			From Main Building: 10' Side: 5' Rear: 5' Corner lots: Side abutting street: 25' may be reduced to 12' (see above)	Maximum of (20') or two stories whichever is greater. (8') minimum height.
Churches and Schools	1 acre	120'	Front: 30' Side: Minimum 8' Total two sides: 22' Rear: 30'	Maximum of (30') or two stories whichever is greater.

2-5-2.4 Performance Standards: The following special provisions shall apply to uses within this zone:

1. The space required around buildings and structures shall be kept free from refuse and debris.
2. All buildings used for human occupancy shall be furnished with a public water supply and shall be constructed in accordance with the adopted building, plumbing, electrical and fire prevention codes.
3. All buildings and uses within this zone shall comply with all applicable supplementary regulations.
4. At least seventy (70%) of the area contained within a required front yard or side yard adjacent to a street shall be landscaped.

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Section 2-5-2: Residential Zoning District, R-1

2-5-2.5 CLEAR VIEW OF INTERSECTING STREETS AND DRIVEWAY

1. In all zones which require a front setback, obstructions which will not afford automobile drivers a clear view of approaching vehicles or pedestrians at street intersections shall be prohibited within a triangular area formed by the street property lines and a line connecting them at points twenty-five (25') feet from the point of intersection of said street lines.
2. Such obstructions which will not afford automobile drivers a clear view of approaching vehicles or pedestrians at driveway entrances shall likewise be prohibited within a triangular area formed by the street property line and the edge of the driveway, with a line connecting them at points twenty-five (25') feet from the point of intersection of the driveway and the street.
3. All driveways and roadways fronting on or intersecting with State Highway 155 shall prohibit all obstructions which will not afford automobile drivers a clear view of approaching vehicles or pedestrians within a triangular area formed by the State Highway 155 street line and the intersecting street line or edge of the driveway, with a line connecting them at points forty-five (45') feet from the point of intersection of State Highway 155 and the street or driveway.

2-5-2.6 FENCES, WALLS AND HEDGES:

1. No fence, wall or continuous hedgerow within the front setback from any street as required in the applicable zone shall exceed a height of four (4') feet. Fences, walls, and hedgerows at greater than the required minimum setback distance may be constructed to a height not to exceed eight (8') feet. Under no circumstance shall any fence, wall or hedgerow be permitted which is in violation of **Section 2-5-2.5** above.
2. All fences and walls shall be constructed of substantial material and the design and construction shall be consistent with the quality of dwellings and other improvements within the surrounding area. Constructions of fences or walls which exceed six (6') feet in height shall be subject to the standards and requirements of the International Building Code as adopted by Cleveland Town.

2-5-2.7 LANDSCAPING

Chapter 2: Zoning Ordinance

Section 2-5-2: Residential Zoning District, R-1

1. Front yards and side yards of all buildings which front on public streets must be landscaped except that up to twenty-five (25%) percent of the front or side yard which faces on a public street may be devoted to driveways and off-street parking.
2. On lots where front and side yards are not required, no landscaping shall be required.

2-5-2.8 SIGNS

1. **Setback.** All permanent signs, including billboards and advertising signs shall be set back from public streets a distance at least equal to the distance that buildings are required to be set back, except that canopy signs, projecting signs, marquee signs, and awning signs may project into the required setback as stated in **Chapter 2-8** of this code.
2. **Screening Requirements.** Except in those zones where billboards are specifically permitted, all signs shall display thereon copy and images pertaining only to products or services sold on premises.
3. **Permits Required.** No billboard or advertising sign shall be erected or placed within the town, without first making application for and obtaining a building permit therefore. In addition, all signs located within six hundred, sixty (660') feet of the right-of-way line of a federally designated highway shall conform to the standards and regulations for such signs established by the State of Utah. Any approval or permits required by said regulations shall be in addition to the building permit herein above required and construction or placement of a sign shall not be commenced until all approvals and permits have been obtained.
4. **A-Frame Sign Permitted.** One A-Frame sign each face of which is no larger than twenty-four (24) square feet, will be permitted on town property at each business location in the Central Commercial and General Commercial zones without requiring a building permit. Said sign must be removed from public property after business hours. No signs may obstruct the normal passage of pedestrian traffic on public sidewalks at any time.

Chapter 2: Zoning Ordinance

Section 2-5-3: Commercial Zoning District, C-1

2-5-3.1 INTENT

2-5-3.2 USE TABLE

2-5-3.3 DEVELOPMENT STANDARDS

2-5-3.4 PERFORMANCE STANDARDS

2-5-3.5 CLEAR VIEW OF INTERSECTING STREETS AND DRIVEWAYS

2-5-3.6 FENCES/WALLS/HEDGES

2-5-3.4 LANDSCAPING

2-5-3.8 SIGNS

2-5-3.1 INTENT: It is the intent of this zone to promote the continued use and improvement of the retail commercial function. In order to accomplish the objective and purposes of this Code and to carry out the intent thereof, the following regulations shall apply to the C-1 Commercial Zone. This zone covers the portion of the Town which is most appropriately suited for wholesaling and retailing activities and services, along with the fabrication and processing of goods and material where no fumes, glare, dust, smoke or vibration are emitted beyond the premises. Motels and recreational vehicle courts are also characteristics of the uses in this Zone.

2-5-3.2 USE TABLE: The following buildings, structures and uses of land shall be permitted or conditionally permitted upon compliance with the requirements set forth in this Code. If a use is not specifically designated then it is prohibited.

Use	Permitted Use	Conditional Use	Business License
Accessory Building	X		
Accessory Signs	X		
Auction Houses		X	X
Automotive sales establishments		X	X
Automotive service establishments		X	X
Banks	X		X
Check Cashing/Title Loan Establishment		X	X
Commercial condominium projects		X	X

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Section 2-5-3: Commercial Zoning District, C-1

Use	Permitted Use	Conditional Use	Business License
Dwelling Unit			
• Multi-Family		X	
• Single Family		X	
• Two Family		X	
Engraving and Printing establishments		X	X
Family Fun Centers & recreation centers		X	X
Farm equipment sales establishments		X	X
Fences, walls and hedges	X		
Funeral Establishments & Reception Centers		X	X
Light Manufacturing		X	X
Livestock		X	
Motels & Hotels		X	X
Pawn Shops		X	X
Personal Service Establishments		X	X
Planned Unit Developments		X	
Professional Offices	X		X
Public parks and buildings	X		
Recreational Vehicle Courts		X	X
Rehabilitation Center: Drug and Substance Abuse		X	X
Restaurant, Fast Food, Drive-In		X	X
Restaurant, Cafe, Confectionery		X	X
Retail Commercial: General	X		X
Retail Commercial: Limited	X		X

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Section 2-5-3: Commercial Zoning District, C-1

2-5-3.3 Development Standards: All structures shall be set back no less than thirty (30) feet from any street. Except that within the Town's traditional Central Business Area, the Town Council, after receiving a recommendation from the Planning Commission, may grant a partial or complete waiver of the setback requirements, when in it's opinion, compliance with the setback requirements would be inconsistent with the existing development in the area.

Lot Type	Lot Size	Frontage	Setbacks	Height Restrictions
Single dwelling unit	5000 sq. ft	25 feet	Front; 25' Side: Minimum: 8' Total two sides: 20' Rear: 25' Corner lots: Front and side abutting a street: 30' Interior side: 8'	(30') or 2 stories whichever is less
Double dwelling unit	7500 sq. ft	25 feet	Front; 25' Side: Minimum: 8' Total two sides: 20' Rear: 25' Corner lots: Front and side abutting a street: 30' Interior side: 8'	(30') or 2 stories whichever is less
Multi-dwelling unit	5000 sq. ft plus 2500 sq. ft for each additional dwelling unit	25 feet	Front; 25' Side: Minimum: 8' Total two sides: 20' Rear: 25' Corner lots: Front and side abutting a street: 30' Interior side: 8'	(30') or 2 stories whichever is less
Retail Commercial: -General -Limited	2500 sq. ft	25 feet	Front; 25' Side: Minimum: 8' Total two sides: 20' Rear: 25' Corner lots: Front and side abutting a street: 30' Interior side: 8'	(30') or 2 stories whichever is less

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Section 2-5-3: Commercial Zoning District, C-1

All other Uses	5000 sq. ft	25 feet	Front; 25' Side: Minimum: 8' Total two sides: 20' Rear: 25' Corner lots: Front and side abutting a street: 30' Interior side: 8'	(30') or 2 stories whichever is less
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2-5-3.4 Performance Standards: The following special provisions shall apply to uses within this zone:

1. Storage space for merchandise, materials, products, and equipment (except for vehicles in running order) shall be contained within a building or surrounded by fences or walls that are impervious to sight.
2. The entire lot shall be kept free from refuse, debris and junk.
3. No noise, fumes, smoke, dust, vibration and light shall be emitted from the premises that may be deleterious to surrounding property values.
4. All gasoline service station pumps shall be set back at least twenty (20) feet from all property lines.
5. No wall, fence, opaque hedge and screening material shall be placed in such a manner which would restrict the sight distance for vehicular traffic, in the public right-of-way.
6. All buildings shall be constructed in accordance with the adopted building, plumbing, electrical, mechanical and fire prevention standards.
7. Prior to the issuance of a building permit for any development within the zone, a site plan shall be submitted to and approved by the Town in accordance with the provisions of **Chapter 2-3 Administration and Enforcement** of this Title.

2-5-3.5 CLEAR VIEW OF INTERSECTING STREETS AND DRIVEWAYS

1. In all zones which require a front setback, obstructions which will not afford automobile drivers a clear view of approaching vehicles or pedestrians at street intersections shall be prohibited within a triangular area formed by the street property lines and a line connecting them at points twenty-five (25') feet from the point of intersection of said street lines.
2. Such obstructions which will not afford automobile drivers a clear view of approaching vehicles or pedestrians at driveway entrances shall likewise be prohibited within a triangular area formed by the street property line and the

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Section 2-5-3: Commercial Zoning District, C-1

- edge of the driveway, with a line connecting them at points twenty-five (25') feet from the point of intersection of the driveway and the street.
3. All driveways and roadways fronting on or intersecting with State Highway 155 shall prohibit all obstructions which will not afford automobile drivers a clear view of approaching vehicles or pedestrians within a triangular area formed by the State Highway 155 street line and the intersecting street line or edge of the driveway, with a line connecting them at points forty-five (45') feet from the point of intersection of State Highway 155 and the street or driveway.

2-5-3.6 FENCES, WALLS AND HEDGES:

1. No fence, wall or continuous hedgerow within the front setback from any street as required in the applicable zone shall exceed a height of four (4') feet. Fences, walls, and hedgerows at greater than the required minimum setback distance may be constructed to a height not to exceed eight (8') feet. Under no circumstance shall any fence, wall or hedgerow be permitted which is in violation of **Section 2-5-7.5** above.
2. All fences and walls shall be constructed of substantial material and the design and construction shall be consistent with the quality of dwellings and other improvements within the surrounding area. Constructions of fences or walls which exceed six (6') feet in height shall be subject to the standards and requirements of the International Building Code as adopted by Cleveland Town.

2-5-3.7 LANDSCAPING

1. Front yards and side yards of all buildings which front on public streets must be landscaped except that up to seventy-five (75%) percent of the front or side yard which faces on a public street may be devoted to driveways and off-street parking.
2. On lots where front and side yards are not required, no landscaping shall be required.

2-5-3.8 SIGNS

1. **Setback.** All permanent signs, including billboards and advertising signs shall be set back from public streets a distance at least equal to the distance

Chapter 2: Zoning Ordinance

Section 2-5-3: Commercial Zoning District, C-1

- that buildings are required to be set back, except that canopy signs, projecting signs, marquee signs, and awning signs may project into the required setback as stated in chapter **2-8 Signs** of this Title.
2. **Screening Requirements.** Except in those zones where billboards are specifically permitted, all signs shall display thereon copy and images pertaining only to products or services sold on premises.
 3. **Permits Required.** No billboard or advertising sign shall be erected or placed within the Town, without first making application for and obtaining a building permit therefore. In addition, all signs located within six hundred, sixty (660') feet of the right-of-way line of a federally designated highway shall conform to the standards and regulations for such signs established by the State of Utah. Any approval or permits required by said regulations shall be in addition to the building permit herein above required and construction or placement of a sign shall not be commenced until all approvals and permits have been obtained.
 4. **A-Frame Sign Permitted.** One A-Frame sign each face of which is no larger than twenty-four (24) square feet, will be permitted on Town property at each business location in the Commercial C-1 zone without requiring a building permit. Said sign must be removed from public property after business hours. No signs may obstruct the normal passage of pedestrian traffic on public sidewalks at any time.

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Section 2-5-4: Industrial Zoning District, I-1

2-5-4.1 INTENT

2-5-4.2 USE TABLE

2-5-4.3 DEVELOPMENT STANDARDS

2-5-4.4 PERFORMANCE STANDARDS

2-5-4.5 CLEAR VIEW OF INTERSECTING STREETS AND DRIVEWAYS

2-5-4.6 FENCES/WALLS/HEDGES

2-5-4.7 LANDSCAPING

2-5-4.8 SIGNS

2-5-4.1 INTENT: The I-1 Industrial Zone covers the portion of the Town which is primarily suited for industrial and manufacturing uses. The I-1 Industrial Zone has been established for the primary purpose of providing a location where manufacturing, processing, warehousing and fabrication of goods and material can be carried on most appropriately and with minimum conflict or deleterious effects upon surrounding properties. This zone is characterized by a mixture of industrial, manufacturing, and processing establishments with intermittent open land that is served by streets, power, water and other utilities and facilities or where such facilities can be readily provided.

2-5-4.2 USE TABLE: The following buildings, structures and uses of land shall be permitted or conditionally permitted upon compliance with the requirements set forth in this Code. If a use is not specifically designated then it is prohibited.

Use	Permitted Use	Conditional Use	Business License
Accessory Building	X		
Adult Oriented Business		X	X
Agriculture	X		
Asphalt and concrete mixing plants		X	X
Automobile wrecking, salvage yards, junk yards and impound lots		X	X
Billboards and Accessory Signs		X	
Coal yards		X	X
Earth moving equipment and equipment storage		X	X

Chapter 2: Zoning Ordinance

Section 2-5-4: Industrial Zoning District, I-1

Use	Permitted Use	Conditional Use	Business License
Heavy Farm machinery service and sales	X		
Fences, walls, and hedges	X		
Gas and Oil storage facilities		X	X
Gas and Oil wells		X	X
Livestock raising	X		
Manufacturing: Light		X	X
Manufacturing: Heavy		X	X
Mining: gravel pits, sand pits, clay pits, rock quarries, rock crushers and buildings and structures in connection therewith		X	X
Oil refineries		X	X
Power plants		X	X
Public buildings and public utility buildings	X		
Pumping plants		X	X
Railroads and railroad maintenance yards		X	
Storage sheds		X	X
Tire recapping establishments		X	X
Utility transmission lines and sub-stations	X		
Vegetable and fruit packing and processing plants		X	X
Warehouses		X	X
Water treatment plants		X	X

2-5-4.3 Development Standards: All structures shall be set back no less than twenty (25) feet from any property line or any street whichever is greater. All setbacks must meet adopted building and fire code requirements.

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Section 2-5-4: Industrial Zoning District, I-1

- A. No side or rear setbacks** are required for the interior sides and rear of lots except that when located adjacent to a residential zone, all buildings shall be set back not less than eight (8) feet.
- B. No minimum area** shall be required except that the area is sufficient to accommodate the use being applied for.
- C. No frontage requirement** is required except that each use shall have access to a public road.
- D. Additional height** may be granted for buildings and structures provided that for each additional one (1) foot increase in height the building or structure shall be set back an additional one (1) foot.

Lot Type	Area	Frontage	Setbacks	Height Restrictions
Industrial	(see above)	(see above)	Front: 25' Side: 0' (see above) Side Corner lot: 25' Rear: 0' (see above)	(30') or 2 stories. Additional height may be granted (see above)

2-5-4.4 Performance Standards: The following special provisions shall apply to uses within the zone.

- All establishments shall be operated in a manner that no noise, vibration, smoke, odor, dust and fumes is emitted which is discernable beyond the boundary of the lot, except for customary vehicular noise.
- Prior to the issuance of a building permit for any development within the zone, a site plan shall be submitted to and approved by the proper land use authority in accordance with the provisions of chapter **2-3 Administration and Enforcement** of this Title.
- Adequate off-street parking shall be provided. Up to seventy five (75%) percent of the required front and side yard areas may be used to supply the off-street parking requirements.

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Section 2-5-4: Industrial Zoning District, I-1

4. No wall, fence, opaque hedge and screening material shall be placed in such a manner which would restrict the sight distance for vehicular traffic in a public right-of-way.
5. Adequate off-street parking and loading space to accommodate employees and customers shall be provided.
6. All buildings used for human occupancy shall be constructed in accordance with the adopted building, plumbing, electrical, mechanical and fire prevention codes.
7. All manufacturing and processing activities shall be conducted in a manner not visible from a public street. All open storage areas shall be enclosed by a sight obscuring fence of not less than six (6) feet in height.
8. All buildings and uses within this zone shall comply with all applicable supplementary regulations.

2-5-4.5 CLEAR VIEW OF INTERSECTING STREETS AND DRIVEWAY

1. In all zones which require a front setback, obstructions which will not afford automobile drivers a clear view of approaching vehicles or pedestrians at street intersections shall be prohibited within a triangular area formed by the street property lines and a line connecting them at points twenty-five (25') feet from the point of intersection of said street lines.
2. Such obstructions which will not afford automobile drivers a clear view of approaching vehicles or pedestrians at driveway entrances shall likewise be prohibited within a triangular area formed by the street property line and the edge of the driveway, with a line connecting them at points twenty-five (25') feet from the point of intersection of the driveway and the street.
3. All driveways and roadways fronting on or intersecting with State Highway 155 shall prohibit all obstructions which will not afford automobile drivers a clear view of approaching vehicles or pedestrians within a triangular area formed by the State Highway 155 street line and the intersecting street line or edge of the driveway, with a line connecting them at points forty-five (45') feet from the point of intersection of State Highway 155 and the street or driveway.

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Section 2-5-4: Industrial Zoning District, I-1

2-5-4.6 FENCES, WALLS AND HEDGES:

1. No fence, wall or continuous hedgerow within the front setback from any street as required in the applicable zone shall exceed a height of four (4') feet. Fences, walls, and hedgerows at greater than the required minimum setback distance may be constructed to a height not to exceed eight (8') feet. Under no circumstance shall any fence, wall or hedgerow be permitted which is in violation of **Section 2-5-9.5** above.
2. All fences and walls shall be constructed of substantial material and the design and construction shall be consistent with the quality of dwellings and other improvements within the surrounding area. Constructions of fences or walls which exceed six (6') feet in height shall be subject to the standards and requirements of the International Building Code as adopted by Cleveland Town.

2-5-4.7 LANDSCAPING

No landscaping shall be required within the industrial zone.

2-5-4.8 SIGNS

1. **Setback.** All permanent signs, including billboards and advertising signs shall be set back from public streets a distance at least equal to the distance that buildings are required to be set back, except that canopy signs, projecting signs, marquee signs, and awning signs may project into the required setback as stated in **Chapter 2-8** of this code.
2. **Screening Requirements.** Except in those zones where billboards are specifically permitted, all signs shall display thereon copy and images pertaining only to products or services sold on premises.
3. **Permits Required.** No billboard or advertising sign shall be erected or placed within the Town, without first making application for and obtaining a building permit therefore. In addition, all signs located within six hundred, sixty (660') feet of the right-of-way line of a federally designated highway shall conform to the standards and regulations for such signs established by the State of Utah. Any approval or permits required by said regulations shall be in addition to the building permit herein above required and construction or placement of a sign shall not be commenced until all approvals and permits have been obtained.

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Section 2-5-4: Industrial Zoning District, I-1

4. **A-Frame Sign Permitted.** One A-Frame sign each face of which is no larger than twenty-four (24) square feet, will be permitted on Town property at each business location in the Commercial zone without requiring a building permit. Said sign must be removed from public property after business hours. No signs may obstruct the normal passage of pedestrian traffic on public sidewalks at any time.

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Section 2-6: Non-Conforming Uses & Non-Complying Structures

2-6.1 PURPOSE.

2-6.2 DETERMINATION OF NON-CONFORMING STATUS.

2-6.3 AUTHORITY TO CONTINUE.

2-6.4 ABANDONMENT OR LOSS OF NON-CONFORMING USE.

2-6.5 MOVING, ENLARGING, OR ALTERING NON-CONFORMING USES.

2-6.6 NON-COMPLYING STRUCTURES.

2-6.7 ORDINARY REPAIR AND MAINTENANCE AND STRUCTURAL SAFETY

2-6.8 RIGHT TO REBUILD

2-6.9 APPEALS.

2-6.1 PURPOSE.

This chapter regulates the continued existence of non-conforming uses and non-complying structures as defined in Chapter 2. While non-conforming uses, non-complying structures and improvements may continue, this chapter is intended to limit enlargement, alteration, restoration, or replacement which would increase the discrepancy between existing conditions and the development standards prescribed by this code. In addition, applications are reviewed to ensure that they are reducing the degree of non-conformity and improving the physical appearance of the structure and site through such measures as landscaping, building design, or the improved function of the use in relation to other uses.

2-6.2 DETERMINATION OF NON-CONFORMING STATUS.

- A. BURDEN ON OWNER TO ESTABLISH LEGALITY.** The owner bears the burden of establishing that any non-conforming use or non-complying structure lawfully exists. Acceptable documentation shall include plat maps, tax records, previous zoning ordinances, and building permits.
- B. DETERMINATION OF STATUS.** The Planning Commission shall determine the non-conforming or non-complying status of properties.

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Any decision of the Planning Commission may be appealed within ten (10) calendar days of the final decision to the Appeal Authority.

2-6.3 AUTHORITY TO CONTINUE.

- A. CONTINUATION OF NON-CONFORMING USE.** A lawful non-conforming use may continue subject to the standards and limitations of this chapter.
- B. CONTINUATION OF NON-COMPLYING STRUCTURE.** A non-complying structure that was lawfully constructed with a permit prior to a contrary change in this code, may be used and maintained, subject to the standards and limitations of this chapter.

2-6.4 ABANDONMENT OR LOSS OF NON-CONFORMING USE.

- A. ABANDONMENT OF NON-CONFORMING USE.** A non-conforming use that is discontinued for a continuous period of twelve (12) months is presumed abandoned and shall not thereafter be reestablished or resumed. Any subsequent use of the building, structure, or land must conform to the regulations for the zoning district in which it is located.
- B. REBUTTABLE PRESUMPTION OF ABANDONMENT.** The presumption of abandonment may be rebutted upon showing that during such period:
 - 1. any period of discontinued use was caused by governmental actions or an act of god without any contributing fault by the owner and the owner did not intend to discontinue the use; or
 - 2. the owner can demonstrate no abandonment of the use.

2-6.5 MOVING, ENLARGING, OR ALTERING NON-CONFORMING USES. No non-conforming use may be moved, enlarged, altered, or occupy additional land, except as provided in this chapter.

- A. ENLARGEMENT.** A non-conforming use may not be enlarged,

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expanded, or extended to occupy all or a part of another structure or site that it did not occupy on the date on which the use became non-conforming. A non-conforming use may be extended through the same building or structure provided no structural alteration of the building or structure is proposed or made for the purpose of the extension and the parking demand is not increased.

- B. EXTERIOR OR INTERIOR REMODELING OR IMPROVEMENTS TO BUILDING OR STRUCTURE.** Exterior or interior remodeling or improvements to a structure containing a non-conforming use shall be allowed provided there is no expansion of the area of the non-conforming use.
- C. RELOCATION OF BUILDING OR STRUCTURE.** A building or structure containing a non-conforming use may not be moved unless the use shall thereafter conform to the regulations of the zoning district into which the building or structure is moved.
- D. CHANGE OF NON-CONFORMING USE TO A CONFORMING USE.** Whenever any non-conforming use is changed to a conforming use, such use shall not later be changed back to a non-conforming use.
 - 1. **APPLICATION.** Application for any non-conforming use must be made upon forms provided by the Town Clerk. Upon filing of a complete application, the Town shall post the property indicating that an application for modification of a non-conforming use has been filed and that more detailed information may be obtained from the Town.
 - 2. **NOTIFICATION OF ABUTTING PROPERTY OWNERS.** Notice shall be provided pursuant to the notice matrix in Chapter 3.
 - 3. **PLANNING COMMISSION MEETING.** Within forty five (45) calendar days of the receipt of a complete application, and

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after giving public notice, the Planning Commission shall hold a public meeting on the non-conforming use application. The Commission shall either grant the application in whole or in part, with or without modifications or conditions, or deny the application. The Commission's decision shall be made pursuant to criteria provided below.

4. **CRITERIA.** The Planning Commission shall approve an application to change a non-conforming use to another non-conforming use if the applicant proves the following criteria:
 - a. All reasonable measures will be undertaken to alleviate or reduce the incompatibility or adverse effects of the non-conforming use or building upon abutting properties or in the neighborhood;
 - b. All changes, additions, or expansions comply with all current laws except as to use;
 - c. The new use, if applicable, will provide for enclosed storage of necessary equipment, materials, and refuse, rather than create a need for additional outside storage; and
 - d. The new use does not increase the parking requirement; or if there is an increase, the site plan meets the parking requirement and the Planning Commission finds that adjoining properties and the neighborhood will not be adversely impacted by the increased parking demand.

2-6.6 NON-COMPLYING STRUCTURES. No non-complying structure may be moved, enlarged, or altered, except in the manner provided in this chapter or unless required by law.

- A. **REPAIR, MAINTENANCE, ALTERATION, AND ENLARGEMENT.** Any non-complying structure may be repaired, maintained, altered, or enlarged, provided that such repair,

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maintenance, alteration, or enlargement shall neither create any new non-compliance nor shall increase the degree of the existing non-compliance of all or any part of such structure.

- B. MOVING.** A non-complying structure shall not be moved in whole or in part, for any distance whatsoever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zone in which it will be located.

2-6.7 ORDINARY REPAIR AND MAINTENANCE AND STRUCTURAL SAFETY. The owner may complete normal maintenance and incidental repair on a complying structure that contains a non-conforming use or on a non-complying structure. This chapter shall not be construed to authorize any violations of law nor to prevent the strengthening or restoration to a safe condition of a structure in accordance with an order of the Building Official who declares such structure to be unsafe and orders its restoration to a safe condition.

2-6.8 RIGHT TO REBUILD.

It shall be the right of each property owner of a legal non-complying structure to rebuild said structure in the event of a fire, earthquake, flood or any other natural disaster, calamity or circumstance beyond the control of the property owner. Said property owner shall have a right to rebuild a non-complying structure, and continue any legal conforming or legal non-conforming use of the structure, that was in operation at the time of the disaster that significantly damaged or destroyed it. A non-complying structure may only be rebuilt if the structure is completely destroyed or sustains significant damage to the point of unsafe occupancy conditions as determined by the Building Official.

2-6.9 APPEALS.

Appeal from a Planning Commission decision made pursuant to this chapter shall be made to the Appeal Authority. Any person filing an appeal for review of any decision made under the terms of this chapter shall file such appeal within thirty (30) days after the date of the Planning Commission's final decision.

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2-7.1 GENERAL STANDARDS OF REVIEW

2-7.2 SPECIFIC STANDARDS OF REVIEW

2-7.2(A) CHILD CARE CENTER/HOME DAY CARE

2-7.2(B) PRESCHOOL FACILITIES

2-7.2(C) INTERMITTENT COMMERCIAL USES

2-7.2(D) HOME OCCUPATION

2-7.2(E) SMALL NEIGHBORHOOD COMMERCIAL OCCUPATIONS

2-7.2(F) ADULT ORIENTED BUSINESSES

2-7.2(G) CONFINEMENT AND KEEPING OF LIVESTOCK

2-7.2(H) PRIVATE AND QUASI-PUBLIC UTILITY BUILDINGS AND STRUCTURES

2-7.2(I) PRIVATE ROADS

2-7.2(J) MOVING BUILDINGS

2-7.2(K) MINOR TELECOMMUNICATIONS FACILITIES AND AMATEUR RADIO ANTENNAS

2-7.2(L) SMALL WIND ENERGY SYSTEMS, SOLAR PANELS AND OTHER ENERGY CREATION DEVICES

2-7.3 PERMIT REVOCATION

2-7.4 TIME LIMIT

2-7.5 NOTICE PROVISIONS

2-7.1 CONDITIONAL USE STANDARDS OF REVIEW. The Town shall not issue a conditional use permit unless the Planning Commission concludes that the application fully mitigates all identified adverse impacts and complies with the following general standards applicable to all conditional uses, as well as the specific standards for the use.

If the reasonably anticipated detrimental effects of a proposed conditional use cannot be mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied.

1. GENERAL REVIEW CRITERIA. An application for a conditional use in the zone must demonstrate:

- A.** The application complies with all applicable provisions of this chapter, state and federal law;
- B.** The structures associated with the use are compatible with surrounding structures in terms of use, scale, mass and circulation;
- C.** The use is not detrimental to the public health, safety and welfare;

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- D.** The use is consistent with the Cleveland Town General Plan as amended;
- E.** Traffic conditions are not adversely affected by the proposed use including the existence or need for dedicated turn lanes, pedestrian access, and capacity of the existing streets;
- F.** That in no way will the use impede the sight triangle of any intersecting street, see the section on **CLEAR VIEW OF INTERSECTING STREETS AND DRIVEWAYS** of the underlying zoning district;
- G.** There is sufficient utility capacity;
- H.** There is sufficient emergency vehicle access;
- I.** The location and design of off-street parking as well as compliance with off-street parking standards;
- J.** A plan for fencing, screening, and landscaping to separate the use from adjoining uses and mitigate the potential for conflict in uses;
- K.** That exterior lighting complies with the lighting standards of the zone;
- L.** That within and adjoining the site, impacts on the aquifer, slope retention, and flood potential have been fully mitigated and is appropriate to the topography of the site.
- M.** No noise, dust, smoke, fumes, trespassing light and any other deleterious or adverse effects shall be allowed to permeate from the property.

2-7.2 SPECIFIC REVIEW CRITERIA FOR CERTAIN CONDITIONAL USES.

In addition to the foregoing, the Planning Commission must evaluate the applicant's compliance with each of the following criteria when considering whether to approve, deny or conditionally approve an application for each of the following conditional uses:

A. Child Care Facility/Home Day Care Center.

Each application for a child care center or home day care center must include and comply with:

1. Proof of application for state child care license;
2. Compliance with state, federal and local law;
3. A design that does not include a front yard playground unless it is properly mitigated;
4. A parking and traffic plan that adequately mitigates the adverse impacts of increased traffic in the neighborhood (if a child care facility);
5. Home Day Care Center - providers may provide services for up

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to eight (8) clients including the providers own children at any given time, with sufficient staffing;

6. Child Care Facility - providers may provide services for any number of clients including the providers own children at any given time, with sufficient staffing;
7. Child Care Centers or Home Day Care Center- must have 1 adult per every two infants under the age of two and 1 adult per every eight children. State regulations require two caregivers if there are more than six children in a home day care and may further limit the number of children allowed in a home day care.

B. Preschool Facilities

Each application for a preschool facility must include and comply with the following standards;

1. There shall be one (1) instructor for every eight (8) children within the mixed age range of 3, 4 & 5 years old, a maximum of sixteen (16) children;
2. The play yard shall not be located in the front yard and shall only be used between 8:00 am and 8:00pm; and
3. The lot shall contain one available on-site parking space not required for use of the dwelling and one additional parking space for each employee that does not reside in the home. The spaces shall be located in such a way as to insure the parking is functional and does not change the residential character of the lot; and
4. No signs shall be allowed on the dwelling or lot except a name plate sign; and
5. The preschool operator shall comply with all applicable licensing regulations adopted in the two (2) ton rated capacity;
5. The home occupation is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character of the building from that of a dwelling;
6. Signs are limited to one non-illuminated accessory sign not larger in area than two (2) square feet.
7. The owner of the home occupation shall purchase a business license to operate within the Town limits;
8. Shall not cause a demand for municipal services in excess of that associated with normal residential use;
9. Shall be enclosed within a structure in complete conformity with international building codes as adopted by the Town;

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10. The physical appearance, traffic, and other activities in connection with the home occupation shall not be contrary to the intent of the zone in which the home occupation is located and will not depreciate surrounding values or decrease the quality of life within the area.

C. Intermittent Commercial Uses.

The occasional use of dwellings, community buildings, private clubs, lodges, social or recreational establishments and/or their accessory buildings for commercial purposes may be allowed upon receiving a conditional use permit and provided the provisions of this section are complied with. The following standards shall apply to all intermittent commercial uses in addition to any conditions the City Council deems necessary and desirable to protect the public health, safety and general welfare.

1. The display and sales of merchandise should be contained primarily within a building.
2. The building proposed for the intermittent commercial use must comply with setback and clear vision area requirements of this ordinance and with applicable building and fire codes.
3. A business license from the City is required to conduct an intermittent commercial use, not to exceed thirty (30) consecutive days.
4. Adequate parking is provided to serve the commercial use that does not create a parking shortage for other existing uses on site.
5. The use does not cause noise, light, or glare which adversely impacts surrounding uses.

D. Home Occupation.

Each application for a business license for a home occupation shall include the applicant's agreement that the proposed home occupation use:

1. Is a conditional use in all zoning districts;
2. Shall be conducted entirely within a dwelling, accessory building or garage and shall be carried on in the building only by members of the residing family;
3. Does not involve the use of yard space for storage or activities;
4. No commercial vehicles are used except one delivery truck, which does not exceed one (1) ton rated capacity;

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5. The home occupation is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character of the building from that of a dwelling;
6. Signs are limited to one non-illuminated accessory sign not larger in area than two (2) square feet.
7. The owner of the home occupation shall purchase a business license to operate within the City limits;
8. Shall not cause a demand for municipal services in excess of that associated with normal residential use;
9. Shall be enclosed within a structure in complete conformity with international building codes as adopted by the City;
10. The physical appearance, traffic, and other activities in connection with the home occupation shall not be contrary to the intent of the zone in which the home occupation is located and will not depreciate surrounding values or decrease the quality of life within the area.

E. Small Neighborhood Commercial Occupations

An application for such use may be approved in specific zones upon finding that the proposed use complies with all the following standards:

1. Shall be conducted entirely within a dwelling, accessory building or garage;
2. All on-site materials used in the conduct of the small neighborhood commercial occupation shall be stored within said dwelling, accessory building or garage;
3. The on-site activities of said small neighborhood commercial occupation shall be conducted only by members of the residing family and a maximum of two employees;
4. The small neighborhood commercial occupation shall contain no facilities for the display of goods or services. Any sale of goods and services shall constitute a clearly incidental part of the operation of the small neighborhood commercial occupation;
5. No commercial vehicles shall be used except one delivery truck, which does not exceed two (2) ton rated capacity;
6. The small neighborhood commercial occupation and the activities conducted as a part thereof shall be clearly incidental and secondary to the use of the property for dwelling purposes and will not have the effect of altering the character of the area

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from that of a residential neighborhood;

7. The activities of the small neighborhood commercial occupation shall not involve the use of combustible or toxic material, which would pose an increased hazard to the area, nor shall the activities produce noise, smoke, glare, odor, dust, flashing light and similar conditions which would decrease the residential quality of the neighborhood;
8. Signs shall be limited to one attached, non-illuminated identification sign, not larger than two (2) square feet in surface area, which does not specify the goods or services provided by the occupation, shall be permitted;
9. The owner of the small neighborhood commercial occupation shall purchase a business license to operate within the Town limits;
10. The physical appearance, traffic, and other activities in connection with the small neighborhood commercial occupation shall not be contrary to the intent of the zone in which the small neighborhood commercial occupation is located and will not depreciate surrounding property values or decrease the quality of life within the area; and
11. A site plan drawn to scale showing the location of the structure, its relationship to dwellings on the same and adjacent properties, and provisions for safe vehicular access and adequate off-street parking shall be submitted with the application.

F. Adult Oriented Businesses

The purpose and objective of this section is to establish reasonable and uniform regulations to prevent the concentration of adult-oriented businesses or their location in areas deleterious to the health, safety and welfare of the Town, and to prevent inappropriate exposure of such businesses to the community. This section regulates the time, place, and manner of the operation of sexually-oriented businesses, consistent with the United States and Utah State Constitutions.

1. No adult-oriented business may be located within one thousand (1,000') feet of any:
 - (i) School, day care facility, cemetery, public park, library, or religious institution;
 - (ii) Residential zoning boundary;
 - (iii) Liquor store, bar or tavern;

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(iv) Other adult-oriented business.

2. For the purposes of this section, distance is measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which the adult-oriented business is located and:
 - (i) The closest exterior wall of another adult-oriented business;
 - (ii) The closest property line of any school, day care facility, public park, library, cemetery or religious institution; and
 - (iii) The nearest property line of any residential zone.

G. Confinement and Keeping of livestock

The purpose of this section is to establish regulations and requirements for the confinement and keeping of livestock on lots within the Town in a manner that will protect the health of both domestic animals and the general public, and minimize the potential for nuisance. The requirements of this section shall apply only to the confinement and keeping of domestic livestock established on or after the date this ordinance was adopted.

1. The maximum number of domestic livestock or fowl permitted on any lot or parcel within the Town shall be as follows:
 - (i) The raising, care, and keeping of animals and fowl in limited numbers as follows:
 - a. Not more than two (2) animal units may be kept for each 20,000 square feet of lot area providing that no animal shall be kept on lots containing less than 20,000 square feet, and provided that the maximum number of animals which may be kept on any one lot or parcel of land shall not be more than six (6) animal units.
2. A domestic livestock unit is defined as one (1) horse, mule, donkey or other equine; one (1) cow, bull, ox, or other bovine, except bison; one (1) pig, three (3) sheep or goats; two (2) llamas; five (5) turkeys, geese, ostriches, emus, or similar animals; or ten (10) chickens, ducks, or other small fowl or rabbits. For the purpose of determining compliance, said definitions shall not include the un-weaned offspring less than six (6) months old, of any residing animal.

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3. Animals or livestock may not be kept, or be allowed to pass within twenty (20) feet of any dwelling on a neighboring lot, which existed at the time of confinement and keeping such livestock or animals was legally established. This restriction shall not apply to the transport of animals or livestock into or out of pasture area which otherwise complies with the requirements of this section.
4. Barns, coops, corrals, hutches, mangers, pens, runs, stables, pig shelter areas, or other structures used for the confinement or keeping of animals or livestock permitted by this section may not be placed, constructed or situated so that any part thereof lies within thirty (30) feet of any dwelling on the same lot. Or within fifty (50) feet of any dwelling on a neighboring lot, which existed at the time confinement and keeping such livestock or animals was legally established. Such restriction shall not include pasture area which otherwise complies with the requirements of this section.
5. At all times chickens, ducks, geese and other fowl shall be kept in coops, and rabbits shall be kept in hutches.
6. Suitable enclosures, substantially constructed, shall be provided and maintained for the safekeeping of all fowl or animals kept within the Town. All structures and enclosures for the confinement and keeping of animals permitted by this section shall meet the following minimum area requirements.
 - (i) Pen size for non-pastured animals; Rabbits, chickens, ducks, geese and other small fowl will require four (4) square feet per animal.
7. Pigs, hogs, swine or other porcines shall be permitted only as conditional uses using the review criteria as outlined in **Section 2-7.1** above and shall be kept at all times in a shelter. Sties or mud wallows shall not be permitted. Manure shall be cleaned twice a month and odors and smell shall be controlled in order to minimize its effects on the surrounding neighborhood by the owner.
 - (i) A maximum of four (4) pigs shall be allowed per legal lot

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and the pen size will require, at a minimum, seventy-five (75') square feet per pig.

H. Private and Quasi-Public Utility Buildings and Structures

Private and Quasi-Public utility buildings or structures incidental to the provision of water, sewer, electric power, or other utilities may be constructed in all residential zones as conditional uses.

I. Private Roads

Private Roads may be constructed to access residential or agricultural property only. A conditional use permit must be obtained for said road.

1. Private Roads may not be constructed to serve more than one or two adjacent parcels of private property.
2. Private Roads will be constructed to adopted Town standards except that the width of said road may be a minimum of twenty five (25') feet and no hard surfacing of the road including asphalt or concrete shall be required.
3. Private Roads shall be the responsibility of the property owner's for maintenance and snow removal.
4. Utility easements for water, sewer, electricity, gas, telecommunications or other utilities may be required on private roads
5. All property owners to which the Private Road services shall have unrestricted access on and through the road.
6. All other access and public street frontage alternatives must be exhausted prior to a private road being considered for a conditional use permit.

J. Moving Buildings

Since moved buildings have often been constructed in a time period prior to the adoption of a building code, and are frequently left in an unsafe and unattractive condition, extra precautions shall be taken to ensure that the buildings meet current building standards and that the appearance of the premises is in keeping with buildings in the surrounding area.

No conventional dwelling, modular or manufactured home or other structure intended for human occupancy, which has had prior use, shall be moved from one site within the Town to another site within the Town or from a site outside of the Town to a site within the Town without a pre-inspection being made by the Building Official and a permit issued therefore.

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The moving of any residential, commercial, or industrial building within the Town, which has had prior use, shall be subject to approval of a moved building permit application by both the Building Inspector and the Zoning Official. In addition to conventionally constructed buildings, the requirements of this provision shall apply to the moving of de-mountable homes, manufactured homes, and similar movable structures, except when being moved from outside the Town into a manufactured home park within the Town.

Before granting approval of the application, the Planning Commission shall apply the following standards of review and findings;

1. That the building will have no appreciable detrimental effect on the living environment and property values in the area into which the structure is to be moved.
2. That the building is in conformity with the quality of buildings existing in the area into which it is proposed to be moved.
3. That said building and the lot on which the building is to be located will conform to the requirements of the Zoning Ordinance, the Building Code, and other applicable codes, ordinances, and regulations.
4. That its location on the lot does not in any substantial way adversely affect buildings or uses in abutting properties.
5. That all required dedications and improvements for streets and facilities and buildings shall be provided in conformity with the standards of the Town.
6. That adequate provision has been made through the posting of a performance bond or other assurance acceptable to the Town that the building and grounds shall be brought up to the standard of a new building before it is occupied and that the vacated site shall be restored to a safe and visually appealing condition.
7. That all applicable permit fees have been paid.
8. That the building and grounds shall be brought up to the standards required of a new building before it is occupied.
9. That before a permit to move a building may be granted, the applicant shall post a cash deposit of 100% of the project, to be placed in an escrow account, to cover costs of bringing the buildings and grounds up to standard. In the event of failure to comply with conditions, the Town, after due notice and public

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hearing thereon, may declare the cash deposit forfeited.

10. That the cash deposit shall also be applied to cover the costs of cleaning up the vacated site in the Town, and restoring it to a safe and sightly condition, in compliance with the Code and the current nuisance ordinance.

K. Minor Telecommunications Facility and Amateur Radio Antennas

This section applies to both commercial and private low-power radio services and facilities, such as “cellular” or “PCS” (personal communications system) communications and paging systems. Each application for a Telecommunications Facility shall comply with the following:

1. Wall-Mounted antenna. Wall-mounted antennas may not extend above the wall line of the building or extend more than four feet (4') horizontally from the face of the building.
2. Stealth wall-mounted antennas are encouraged and may be allowed to vary from the provisions of this section upon demonstrated mitigation of impact.
3. Roof-Mounted antenna. Roof-mounted antennas are allowed only on a flat roof and shall be screened and designed to match the structure to which they are attached. The Planning Commission may grant approval to place roof-mounted stealth antennae on a pitched roof if the Antenna does not extend above the peak of the roof.
4. Antennas shall be mounted at least five feet (5') behind any parapet wall. The maximum height of an antenna mounted between five (5') and ten feet (10') behind a parapet wall shall be directly proportional to the setback distance, and may not exceed a height of ten feet (10') above the top of the parapet wall. An antenna may not extend more than fifteen feet (15') above the roofline of the building unless the adverse impacts of the additional height are fully mitigated.
5. Power lines. All power lines on the lot leading to the accessory building and antenna structure of the Telecommunications Facility shall be installed underground.
6. Area limitations. Combinations of both Roof and Wall-mounted antennas are allowed on a Building. The total area for all wall and roof-mounted antennas and supporting structures combined shall not exceed forty (40) square feet for each

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exterior wall of the building or a total of one hundred sixty (160) square feet per building. Cellular antennas may occupy a maximum of four (4) walls.

7. Review criteria. Each Applicant for a Telecommunications Facility must address the following:
 - (i) Compatibility of the proposed structure with the height and mass of existing adjacent buildings and utility structures;
 - (ii) Whether co-location of the antenna on other existing structures in the same vicinity such as other towers, buildings, utility poles and similar structures is possible without significantly affecting antenna transmission or reception;
 - (iii) The location of the antenna in relation to existing vegetation, topography and buildings to optimize visual screening;
 - (iv) Whether the spacing between monopoles creates detrimental impact upon adjacent properties;
 - (v) The location of the pole in relation to noteworthy structures, landmarks and pedestrian or automotive transportation view corridors;
 - (vi) Location and zoning compliance of accessory buildings associated with the Telecommunications Facility.
 - (vii) The maximum height of any tower or antenna in connection with a Telecommunications Facility or Amateur Radio Antenna shall not be greater than the total distance from the nearest property line to said tower or antenna.
8. Monopole. A conditional use permit for a commercial monopole may be granted in a residential zone district only if the planning commission finds that:
 - (i) The monopole antenna does not exceed thirty five (35') feet in height;
 - (ii) Monopole with antennae and antennae support structure does not exceed two feet in width;
 - (iii) The antenna tower will be placed on a parcel, which is not occupied by a residential use, such as a school, church, or other nonresidential use, which is otherwise legally located in that residential zone;
 - (iv) The antenna tower will be located no closer than two

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hundred feet (200') from the nearest residential structure, and

- (v) The monopole will be disguised as, or otherwise integrated with, a light pole or similar utility structure located on the parcel to minimize and mitigate the visual impact of the antenna. Monopoles shall be fenced with a six-foot chain-link fence and the climbing pegs removed from the lower twenty feet of the monopole. In circumstances where the accessory building and fence may be viewable from any public road or public space the Planning Commission may require alternative building and fencing materials such as masonry, wrought iron or chain-link with colored vinyl coating depending on the location.
 - (vi) No monopole or lattice tower may be located within one thousand (1,000) feet of another monopole or lattice tower unless it is for the bona fide public services of a public transit district as defined in Section 17A-2 1001 et seq. of the Utah Code Annotated and as certified by said public transit district.
9. Co-location. Co-location is both permitted and encouraged if all setbacks, design and landscape requirements are met for each Telecommunications Facility. The application shall include any existing or approved, but un-built, Telecommunications Facility within the Telecommunications area that may meet the needs of the applicant. The documentation supplied shall evaluate the following factors:
- (i) Structural capacity of the antenna towers;
 - (ii) Geographic Telecommunications area requirements;
 - (iii) Mechanical or electrical incompatibilities;
 - (iv) Inability or ability to locate equipment on existing antenna towers; and
 - (v) Any restriction or limitation of the Federal Communication Commission that would preclude the shared use of the antenna tower.
10. Classification/installation: Low-power radio services facilities are characterized by the type of location of the antenna structure.
11. Temporary antenna for use during drive tests. Telecommunications companies wishing to perform Drive

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Tests shall submit notice to the Planning Commission stating the location and the date of the proposed test. Antennas in use for a drive test shall not be left standing for a period of greater than two (2) days. Drive tests shall be limited to testing functions only and shall not be used for Telecommunications services to customers. Drive tests on town property require Planning and Zoning Official approval and execution of the Town's test-drive agreement.

12. Amateur radio antennas must not exceed seventy-five (75) feet in height. Any antenna or antenna structure over eight (8) feet in height must be an engineered structure.

L. Small Wind Energy Systems, Solar Panels And Other Energy Creation Devices. Small wind energy systems, designed solar collectors, or other energy devices based on renewable resources may be reasonably sited on lots or parcels within applicable zoning districts provided conditions can be imposed to mitigate their detrimental effects. For the purposes of granting a conditional use permit the following criteria shall apply:

1. Solar Collectors & Other Renewable Resource Energy Devices. A conditional use permit may be granted for Solar Collectors & Other Renewable Resource Energy Devices provided that:
 - (i) Applicants for Solar Collectors & Other Renewable Resource Energy Devices shall take every measure possible to keep such devices from public view;
 - (ii) The solar easement or solar sky-space of any adjacent lot or parcel shall not be imposed upon.
 - (iii) No solar energy system or other renewable resource energy device shall impose any kind of threat to the public health, safety and general welfare;
 - (iv) Nor shall any system or device produce any noise, dust, smoke, fumes, trespassing light and any other deleterious or adverse effects be allowed to permeate from the property.
- (a) Solar easement means: a right, whether or not stated in the form of restriction, easement, covenant, or conditions in any deed, will, or other instrument executed by or on behalf of any owner of land or solar sky-space for the purpose of ensuring adequate exposure of a solar energy system as defined herein.

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- (b) Solar energy system means: a system of apparatus and equipment capable of collecting and converting incident solar radiation into heat, or mechanical or electrical energy, and transferring these forms of energy by a separate apparatus to storage or to point of use, including, but not limited to, water heating, space heating or cooling, electric energy generation or mechanical energy generation.
 - (c) Solar sky-space means: the space between a solar energy collector and the sun which must remain unobstructed such that on any given clear day of the year, not more than 10 percent of the collectable insulation shall be blocked.
- 2. Small Wind Energy System. A conditional use permit may be granted for a small wind energy system provided that reasonable conditions can be met based on the following criteria:
 - (i) No more than one (1) small wind energy system shall be permitted per lot and shall only generate energy for use of a main building and/or accessory buildings located on the same lot. This standard however is not intended to prohibit the transfer of excess energy to the power grid.
 - (ii) The small wind energy system shall be designed with a monopole and may include guy wires or support structures.
 - (iii) The small wind energy system shall not create noise louder than 55 dBa as measured from any property line.
 - (iv) The small wind energy system shall have a non-reflective, neutral color surface.
 - (v) Setbacks for small wind energy systems shall be one and one-half (1 ½) times the total height of said small wind energy system as measured from the base of the structure to the highest point of a rotating blade. In no case shall any small wind energy system be closer than thirty (30') feet from any adjacent property line. The setback is measured from the property line to the base of the monopole.
 - (vi) Maximum Height shall be one hundred (100') feet. Additional height restrictions may be imposed if the small wind energy system is in any airports fly zone.

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- (a) Small Wind Energy System means: a structure or structures that may include a wind turbine, a tower, footings, electrical infrastructure, and associated equipment and structures intended to utilize wind power for the pumping of water for agricultural use on the parcel or property on which the system is located, or for electrical power generation for on-site consumption of a main building and/or accessory buildings and that has a rated capacity of not more than 20 kilowatts.

2-7.3 Permit Revocation

- A. The Town Council may revoke the Conditional Use Permit of any person upon a finding that the holder of the permit has failed to comply with any of the conditions imposed at the time the permit was issued. The Town Council shall send notice of the revocation to the holder of the permit and the holder of the permit shall immediately cease any use of the property which was based on the Conditional Use Permit.
- B. If the Town Council revokes any permit under this section, the holder of the permit shall have a right to appeal the revocation of the permit. The holder must file the appeal with the Town Clerk within fifteen (15) days of the date of the notice that the Town has revoked the Conditional Use Permit.
- C. Upon receipt of the appeal, the Town Council shall set a hearing on the appeal at its next regularly scheduled meeting which is more than fifteen (15) days after the time the Town Recorder received the appeal. The Town shall notify the permit holder of the time, date and place of the hearing at least fifteen (15) days before the hearing. At the hearing, the permit holder shall have the right to be heard on the revocation.

2-7.4 Time Limit

Action authorized by a conditional use permit must commence within one (1) year of the time the permit is issued. If the permit holder has not commenced action under the permit within this time, the permit shall expire and the holder must apply

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for a new permit. The Planning Commission may grant an extension for good cause shown. Only one extension may be granted and the maximum extension shall be six (6) months. In order to obtain an extension, the permit holder must apply for an extension in writing before the expiration of the original permit. The application must be submitted to the Town Recorder and the application must describe the cause for requesting the extension.

2-7.5 Notice Provisions

In the event that a public hearing is required for a conditional use application, the applicant shall be responsible for all costs associated with properly giving notice to all property owners within a 250-foot radius of the conditional use applicant's property. Notice shall be mailed at the applicant's expense of any hearing to grant or deny the conditional use permit a minimum of 10 days prior to the date of the required hearing. Completed signature review forms are to be supplied to the town by the applicant.

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2-8.1 GENERAL SIGN TYPES.

2-8.2 GENERAL PROVISIONS

2-8.3 EXEMPT SIGNS

2-8.4 PROHIBITED SIGNS

2-8.5 PERMITS

2-8.6 SPECIFIC SIGN REQUIREMENTS

2-8.7 SIGNS FOR DEVELOPMENT COMPLEXES

2-8.8 SAMPLE GENERAL SIGN TYPES

2-8.1 GENERAL SIGN TYPES

General Sign Types and the computation of sign area shall be as depicted in Figures 2-8.8(A), 2-8.8(B), 2-8.8(C), and 2-8.8(D) at the end of this chapter.

2-8.2 GENERAL PROVISIONS

- A. CONFORMANCE TO CODES.** Any sign hereafter erected shall conform to the provisions of this ordinance and the provisions of the International Building Code and of any other applicable ordinance or regulation within this jurisdiction.
- B. SIGNS IN RIGHTS-OF-WAYS.** No sign other than an official traffic sign or similar sign shall be erected within two (2') feet of the lines of any street, or within any public way, unless specifically authorized by other ordinances or regulations of this jurisdiction.
- C. PROJECTIONS OVER PUBLIC WAYS.** Signs projecting over public walkways shall be permitted subject to the projection and clearance limits either defined herein or, if not so defined, at a minimum height of eight (8') feet from grade level to the bottom of the sign. Signs, architectural projections or sign structures projecting over vehicular access areas must conform to the minimum height clearance limitations imposed by the jurisdiction for such structures.
- D. TRAFFIC VISIBILITY.** No sign or sign structure shall be erected at the intersection of any street in such a manner as to obstruct free and clear vision, nor at any location where by its position, shape or color may interfere with or obstruct the view of or be confused with any authorized traffic sign, signal, or device.

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- E. COMPUTATION OF FRONTAGE.** If a premise contains walls facing more than one property line or encompasses property frontage bounded by more than one street or other property usages, the sign area(s) for each building wall or property frontage will be computed separately for each building wall or property line facing a different frontage. The sign area(s) thus calculated shall be permitted to then be applied to permitted signs placed on each separate wall or property line frontage.
- F. ANIMATION AND CHANGEABLE MESSAGES.** Animated signs, except as prohibited in this chapter, are permitted in commercial and industrial zones only. Changeable signs, manually activated, are permitted for nonresidential uses in all zones. Changeable signs, electrically activated, are permitted in all nonresidential zones.
- G. MAINTENANCE, REPAIR AND REMOVAL.** Every sign permitted by this ordinance shall be kept in good condition and repair. When any sign becomes insecure, in danger of falling or is otherwise deemed unsafe by the land use authority, or if any sign shall be unlawfully installed, erected or maintained in violation of any of the provisions of this ordinance, the owner thereof or the person or firm using same shall, upon written notice by the land use authority forthwith in the case of immediate danger, and in any case within not more than ten (10) days, make such sign conform to the provisions of this ordinance, or shall remove it. If within ten (10) days the order is not complied with, the land use authority shall be permitted to remove or cause such sign to be removed at the expense of the owner and/or the user of the sign.
- H. OBSOLETE SIGN COPY.** Any sign copy that no longer advertises or identifies a use conducted on the property on which said sign is erected must have the sign copy covered or removed within thirty (30) days after written notification from the land use authority; and upon failure to comply with such notice, the land use authority is hereby authorized to cause removal of such sign copy, and any expense incident thereto shall be paid by the owner of the building, structure or ground on which the sign is located. An exception to this regulation shall be signs of a historic nature or signs deemed historic by either

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the National Historic Register or the Cleveland Town Historic Preservation Committee.

- I. NONCONFORMING SIGNS.** Any sign legally existing at the time of the passage of this ordinance that does not conform in use, location, height or size with the regulations of the zone in which such sign is located, shall be considered a legal nonconforming use or structure and shall be permitted to continue in such status until such time as it is either abandoned or removed by its owner, subject to one or both of the following limitations:
1. Structural alterations, enlargement or re-erection are permissible only where such alterations will not increase the degree of nonconformity of the signs.
 2. Any legal nonconforming sign shall be removed or rebuilt without increasing the existing height or area if it is damaged, or removed if allowed to deteriorate to the extent that the cost of repair or restoration exceeds 50 percent of the replacement cost of the sign as determined by the land use authority.
- J. CLEARANCE FROM HIGH-VOLTAGE POWER LINES.** Signs shall be located not less than ten (10') feet horizontally or fifteen (15') feet vertically from overhead electrical conductors which are energized in excess of 750 volts. The term "overhead conductors" as used in this section means an electrical conductor, either bare or insulated, installed above the ground, except when conductors are enclosed in electrical conduit or other approved material covering of equal strength.
- K. CLEARANCE FROM FIRE ESCAPES, EXITS OR STANDPIPES.** Signs or sign structures shall not be erected in such a manner that a portion of their surface or supports will interfere with the free use of any fire escape, exit or standpipe.
- L. OBSTRUCTION OF OPENINGS.** Signs shall not obstruct openings to the extent that light or ventilation is reduced to a point below that required by this code. Signs erected within five (5') feet of an exterior wall in which there are openings within the area of the sign shall be constructed of noncombustible material or approved plastics, as determined by the building official.

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2-8.3 EXEMPT SIGNS

- A. Exempt Signs.** The following signs shall be exempt from the provisions of this chapter:
1. Official notices authorized by a court, public body or public safety official.
 2. Directional, warning or information signs authorized by federal, state or municipal governments.
 3. Memorial plaques, building identification signs and building cornerstones when cut or carved into a masonry surface or when made of noncombustible material and made an integral part of the building or structure.
 4. The flag of a government or noncommercial institution, such as a school.
 5. Religious symbols and seasonal decorations within the appropriate public holiday season.
 6. Works of fine art displayed in conjunction with a commercial enterprise where the enterprise does not receive direct commercial gain from the display thereof.
 7. Street address signs and combination nameplate and street address signs that contain no advertising copy and which do not exceed six (6') square feet in area.

2-8.4 PROHIBITED SIGNS

- A. Prohibited Signs.** The following devices and locations shall be specifically prohibited:
1. Signs located in such a manner as to obstruct or otherwise interfere with an official traffic sign, signal or device, or which obstruct or interfere with a driver's view of approaching, merging or intersecting traffic.
 2. Except as provided for elsewhere in this code, signs encroaching upon or overhanging public right-of-way. No sign shall be attached to any utility pole, light standard, street tree or any other public facility located within the public right-of-way.
 3. Signs which blink, flash, or are animated by lighting in any fashion that would cause such signs to have the appearance of traffic safety signs and lights, or municipal vehicle warnings from a distance.
 4. Portable signs except as allowed for temporary signs.

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5. Any sign attached to, or placed on, a vehicle or trailer parked on public or private property, except for signs meeting the following conditions:
 - a. The primary purpose of such a vehicle or trailer is not the display of signs.
 - b. The signs are magnetic, decals or painted upon an integral part of the vehicle or equipment as originally designed by the manufacturer, and do not break the silhouette of the vehicle.
 - c. The vehicle or trailer is in operating condition, currently registered and licensed to operate on public streets when applicable, and activity used or available for use in the daily function of the business to which such signs relate.
6. Vehicles and trailers are not used primarily as static displays, advertising a product or service, nor utilized as storage, shelter or distribution points for commercial products or services for the general public.
7. Balloons, streamers or pinwheels except those temporarily displayed as part of a special sale, promotion or community event. For the purposes of this subsection, “temporarily” means no more than twenty (20) days in any calendar year.
8. Permanent Off-premise signs or “billboards” in all zones within Cleveland Town.

2-8.5 PERMITS

- A. **Permits Required.** Unless specifically exempted, a permit must be obtained from the land use authority for the erection and maintenance of all signs erected or maintained within this jurisdiction and in accordance with other ordinances of this jurisdiction. Exemptions from the necessity of securing a permit, however, shall not be construed to relieve the owner of the sign involved from responsibility for its erection and maintenance in a safe manner and in a manner in accordance with all the other provisions of this ordinance.
- B. **Construction Documents.** Before any permit is granted for the erection of a sign or sign structure requiring such permit, construction documents shall be filed with the land use authority showing the dimensions, materials and required details of construction, including loads, stresses, anchorage and any other pertinent data. The permit

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application shall be accompanied by the written consent of the owner or lessee of the premises upon which the sign is to be erected and by engineering calculations signed and sealed by a registered design professional where required by the International Building Code and any other applicable ordinance or regulation within this jurisdiction.

- C. Changes to Signs.** No sign shall be structurally altered, enlarged or relocated except in conformity to the provisions herein, nor until a proper permit, if required, has been secured. The changing or maintenance of movable parts or components of an approved sign that is designed for such changes, or the content of any sign shall not be deemed a structural alteration.
- D. Permit Fees.** Permit fees to erect, alter or relocate a sign shall be in accordance with the fee schedule adopted within this jurisdiction.

2-8.6 SPECIFIC SIGN REQUIREMENTS

- A. Identification Signs.** Identification signs shall be in accordance with **Tables 2-8.6(a), 2-8.6(b), and 2-8.6(c).**
- B. Wall Signs.** Every single-family residence, multiple-family residential complex, commercial or industrial building, and every separate nonresidential building in a residential zone may display wall signs per street frontage subject to the limiting standards set forth in **Table 2-8.6(a).**
For shopping centers, planned industrial parks or other multiple occupancy nonresidential buildings, the building face or wall shall be calculated separately for each separate occupancy, but in no event will the allowed area for a wall sign for any separate occupancy be less than one half (1/2) square feet.

Table 2-8.6(a) IDENTIFICATION SIGN STANDARDS- WALL SIGNS	
<i>LAND USE</i>	<i>AGGREGATE AREA (square feet)</i>
Single-family residential	Two (2) square feet

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Table 2-8.6(a) IDENTIFICATION SIGN STANDARDS- WALL SIGNS	
Multiple-family residential	Two (2) square feet
Nonresidential in a residential zone	Two (2) square feet
Commercial and Industrial	See Table 2-9.7(b)

Table 2-8.6(b) SIGN AREA	
<i>Distance of sign from a road or adjacent commercial or industrial zone</i>	<i>Percentage of building elevation permitted for sign area</i>
0 to 100 feet	12.5%
101 to 300 feet	19%
Over 301 feet	25%

- C. Free-standing Signs.** In addition to any allowable wall signs, every single-family residential subdivision, multiple-family residential complex, and commercial or industrial building shall be permitted to display free-standing or combination signs per street frontage subject to the limiting standards set forth in **Table 2-8.6(c)**.

Table 2-8.6(c) IDENTIFICATION SIGN STANDARDS - FREE-STANDING SIGNS				
<i>LAND USE</i>	<i>NUMBER OF SIGNS</i>	<i>HEIGHT (feet)</i>	<i>AREA (square feet)</i>	<i>SPACING</i>
Single-family residential subdivision entrance	One (1)	Four (4) feet	Four (4) square feet	1 per subdivision entrance

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Table 2-8.6(c) IDENTIFICATION SIGN STANDARDS - FREE-STANDING SIGNS				
Multiple-family Residential	One (1)	Four (4) feet	Four (4) square feet	1 per driveway
Commercial and Industrial	One (1)	See Figures 2-8.6 A, 2-8.6 B	See Figures 2-8.6 A, 2-8.6 B	1 per driveway

- D. Directional Signs.** No more than two directional signs shall be permitted per street entrance to any lot. There shall be no limit to the number of directional signs providing directional information interior to a lot. In residential zones directional signs shall be prohibited. For all other zones, the maximum area for any directional sign visible from adjacent property or rights-of-way shall be six (6) square feet. Not more than 25 percent of the area of any directional sign shall be permitted to be devoted to business identification or logo, which area shall not be assessed as identification sign area.
- E. Temporary Signs.** Temporary signs shall be permitted in all zones in accordance with **Tables 2-8.6(a), 2-8.6(b) and 2-8.6(c)**.
- F. Real Estate Signs.** Real estate signs shall be permitted in all zoning districts, subject to the following limitations:
1. Real estate signs located on a single residential lot shall be limited to one sign, not greater than six (6) feet in height and six (6) square feet in area.
 2. Real estate signs advertising the sale of lots located within a subdivision shall be limited to one sign per entrance to the subdivision, and each sign shall be no greater than thirty-two (32) square feet in area nor six (6) feet in height. All signs permitted under this section shall be removed within ten (10) days after the sale of the last original lot.
 3. Real estate signs advertising the sale or lease of space within commercial or industrial buildings shall be no greater than thirty-two (32) square feet in area nor ten (10) feet in height, and shall be limited to one sign per street front.
 4. Real estate signs advertising the sale or lease of vacant

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commercial or industrial land shall be limited to one sign per street front, and each sign shall be no greater than ten (10) feet in height, and thirty-two (32) square feet in area for property of 10 acres or less, or sixty-four (64) square feet in area for property exceeding 10 acres.

5. Real estate signs shall be removed not later than ten (10) days after execution of a lease agreement in the event of a lease, or the closing of the sale in the event of a purchase.

G. Development and Construction Signs. Signs temporarily erected during construction to inform the public of the developer, contractors, architects, engineers, the nature of the project or anticipated completion dates, shall be permitted in all zoning districts, subject to the following limitations:

1. Such signs on a single residential lot shall be limited to one sign, not greater than six (6) feet in height and thirty-two (32) square feet in area.
2. Such signs for a residential subdivision or multiple residential lots shall be limited to one sign, at each entrance to the subdivision or on one of the lots to be built upon, and shall be no greater than six (6) feet in height and thirty-two (32) square feet in area.
3. Such signs for nonresidential uses in residential districts shall be limited to one sign, and shall be no greater than six (6) feet in height and thirty-two (32) square feet in area.
4. Such signs for commercial or industrial projects shall be limited to one sign per street front, not to exceed twelve (12) feet in height and sixty-four (64) square feet in area.
5. Development and construction signs may not be displayed until after the issuance of construction permits by the building official, and must be removed not later than 24 hours following issuance of an occupancy permit for any or all portions of the project.

H. Special Promotion, Event and Grand Opening Signs. Signs temporarily displayed to advertise special promotions, events and grand openings shall be permitted for nonresidential uses in a residential district, and for all commercial and industrial districts subject to the following limitations:

1. Such signs shall be limited to one sign per street front.

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2. Such signs may be displayed for not more than thirty (30) consecutive days in any 3-month period, and not more than sixty (60) days in any calendar year. The signs shall be erected no more than fourteen (14) days prior to the event or grand opening, and shall be removed not more than five (5) days after the event or grand opening.
3. The total area of all such signs shall not exceed six (6) square feet in any single family residential district, six (6) square feet in any multiple-family residential district and one hundred thirty (130) square feet in any commercial or industrial district.

I. Special Event Signs in Public Ways.

Signs advertising a special community event may be allowed in or over public rights-of-way, subject to approval by the land use authority as to size, location and method of erection. The land use authority may not approve any special event signage that would impair the safety and convenience of use of public rights-of-way, or obstruct traffic visibility.

J. Portable Signs. Portable signs shall be permitted only in the commercial and industrial zones, as designated in this code, subject to the following limitations:

1. No more than one such sign may be displayed on any property, and shall not exceed a height of four (4) feet nor an area of twelve (12) square feet.
2. Such signs shall be displayed not more than twenty (20) days in any calendar year.
3. Any electrical portable signs shall comply with the International Electric Code , as adopted in this jurisdiction.
4. No portable sign shall be displayed prior to obtaining a sign permit.

K. Political Signs. Political signs shall be permitted in all zoning districts, subject to the following limitations:

1. Such signs shall not exceed a height of four (4) feet, nor an area of twelve (12) square feet.
2. Such signs for election candidates or ballot propositions shall be displayed only for a period of sixty (60) days preceding the election and shall be removed within ten (10) days after the election, provided that signs promoting successful candidates or ballot propositions in a primary election may remain displayed

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until not more than ten (10) days after the general election.

3. Such signs shall not be placed in any public right-of-way or obstruct traffic visibility.

L. Requirements for Specific Sign Types. Signs of specific type shall be in accordance with Sections a through g.

M. Canopy and Marquee Signs.

1. The permanently-affixed copy area of canopy or marquee signs shall not exceed an area equal to 25 percent of the face area of the canopy, marquee or architectural projection upon which such sign is affixed or applied.
2. Graphic striping, patterns or color bands on the face of a building, canopy, marquee or architectural projection shall not be included in the computation of sign copy area.

N. Awning Signs.

1. The copy area of awning signs shall not exceed an area equal to 25 percent of the background area of the awning or awning surface to which such a sign is affixed or applied, or the permitted area for wall or fascia signs, whichever is less.
2. Neither the background color of an awning, nor any graphic treatment or embellishment thereto such as striping, patterns or valances, shall be included in the computation of sign copy area.

O. Projecting Signs.

1. Projecting signs shall be permitted in lieu of freestanding signage on any street frontage limited to one sign per occupancy along any street frontage with public entrance to such an occupancy, and shall be limited in area to one (1) square foot per each three (3) lineal feet of building frontage, except that no such sign shall exceed an area of thirty-two (32) square feet.
2. No such sign shall extend vertically above the highest point of the building facade upon which it is mounted by more than twenty (20) percent of the height of the building facade,
3. Such signs shall not extend over a public sidewalk in excess of twenty-five (25) percent of the width of the sidewalk.
4. Such signs shall maintain a clear vertical distance above any

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public sidewalk a minimum of ten (10) feet.

P. Under-canopy Signs.

1. Under canopy signs shall be limited to no more than one such sign per public entrance to any occupancy, and shall be limited to an area not to exceed eight (8) square feet.
2. Such signs shall maintain a clear vertical distance above any sidewalk or pedestrian way a minimum of ten (10) feet.

Q. Roof Signs.

1. Roof signs shall be permitted in commercial and industrial districts only.
2. Such signs shall be limited to a height above the roof-line of the elevation parallel to the sign face of no more than thirty (30) percent of the height of the roof-line in commercial districts, and thirty (30) percent of the height of the roof-line in industrial districts.
3. The sign area for roof signs shall be assessed against the aggregate permitted area for wall signs on the elevation of the building most closely parallel to the face of the sign.

R. Window Signs. Window signs shall be permitted for all commercial and industrial districts, subject to the following limitations:

1. The aggregate area of all such signs shall not exceed twenty-five (25) percent of the window area on which such signs are displayed. Window panels separated by muntins or mullions shall be considered as one continuous window area.
2. Window signs shall not be assessed against the sign area permitted for other sign types.
3. Temporary window signs shall not be considered when determining window sign percentages. "Temporary window signs" shall mean any sign made of paper, cardboard or other non permanent material, that temporarily advertises the sale of goods or services for a time period not to exceed thirty (30) days.

S. Menu Boards. Menu board signs that exceed thirty-two (32) square feet in size shall not be permitted.

2-8.7 SIGNS FOR DEVELOPMENT COMPLEXES

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- A. Master Sign Plan Required.** All landlord or single-owner controlled multiple-occupancy development complexes on parcels exceeding four (4) acres in size, such as shopping centers or planned industrial parks, shall submit to the land use authority a master sign plan prior to issuance of new sign permits. The master sign plan shall establish standards and criteria for all signs in the complex that require permits, and shall address, at a minimum, the following:
1. Proposed sign locations
 2. Materials to be used in construction of signs.
 3. Type of illumination.
 4. Design of free-standing sign structures.
 5. Size.
 6. Quantity.
 7. Uniform standards for non-business signage, including directional and informational signs.
- B. Development Complex Sign.** In addition to the freestanding business identification signs otherwise allowed by this ordinance, every multiple-occupancy development complex shall be entitled to one free-standing sign per street front, at the maximum size permitted for business identification freestanding signs, to identify the development complex. No business identification shall be permitted on a development complex sign. Any free-standing sign otherwise permitted under this ordinance may identify the name of the development complex.
- C. Compliance With Master Sign Plan.** All applications for sign permits for signage within a multiple-occupancy development complex shall comply with the master sign plan.
- D. Amendments.** Any amendments to a master sign plan must be signed and approved by the owner(s) within the development complex before such amendment will become effective.

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2-8.8 SAMPLE GENERAL SIGN TYPES

The table below computes maximum sign square footage and height. The graphics below in Figure 2-8.8(A) through 2-8.8(D) depict general sign types and how sign area is computed.



Table 2-8.8(a)

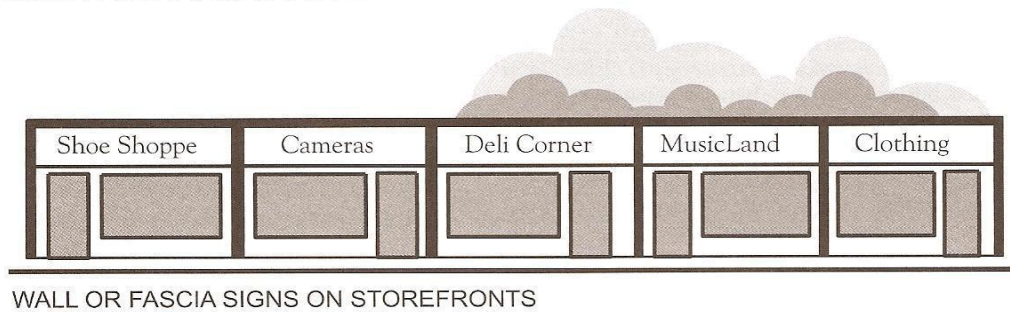
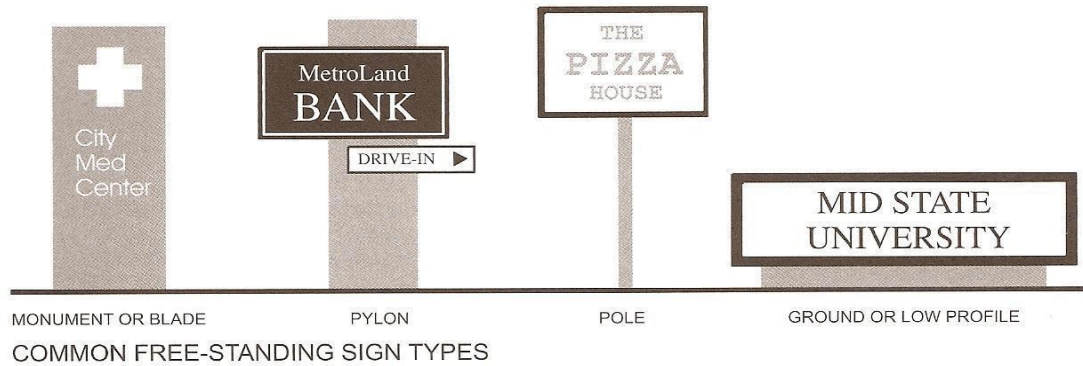
ON-PREMISE FREE-STANDING SIGNS COMMERCIAL AND INDUSTRIAL ZONES

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General Sign Types Figure 2-8.8(A)

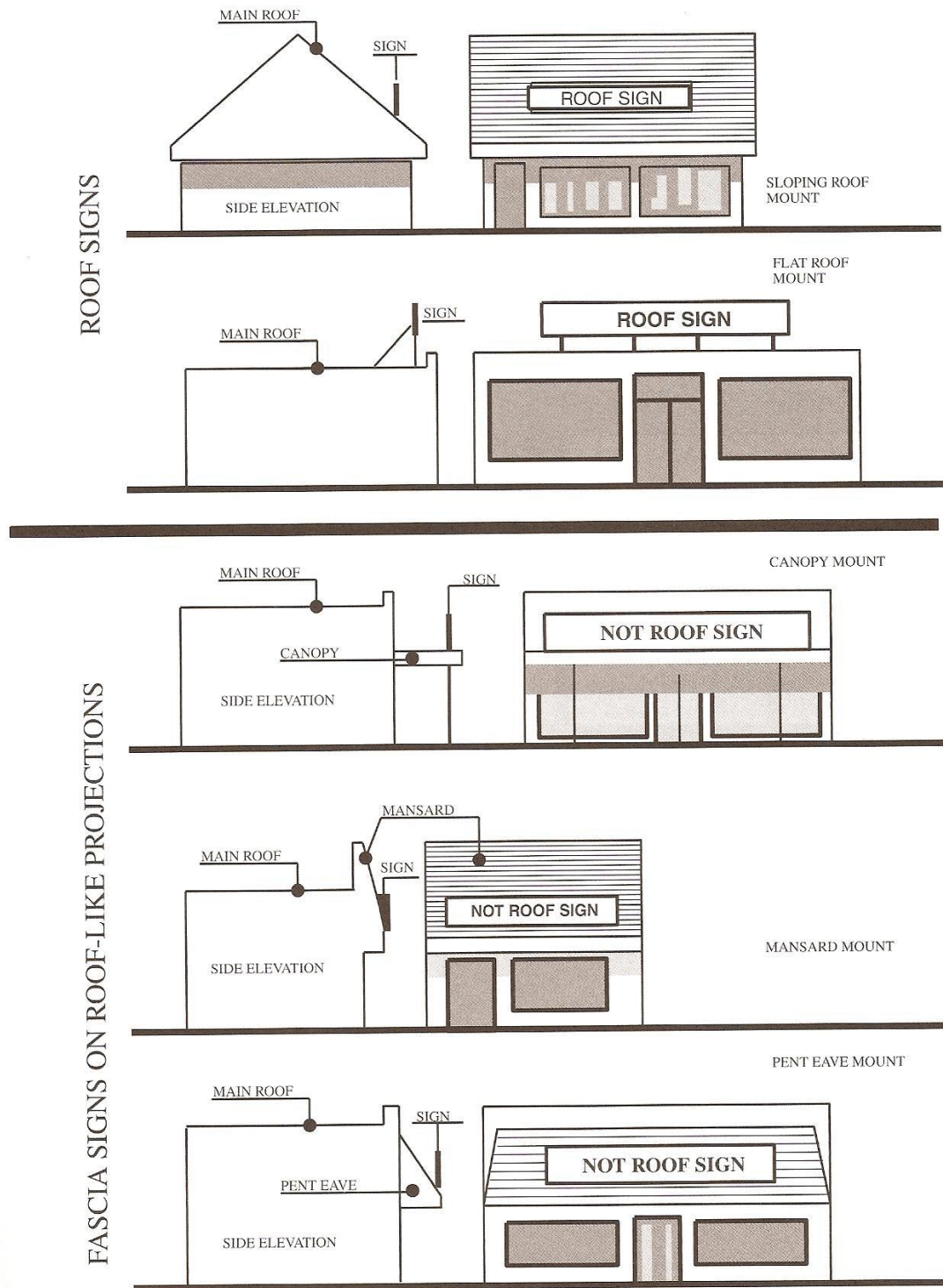
General Sign Types Figure 2-8.8 (B)



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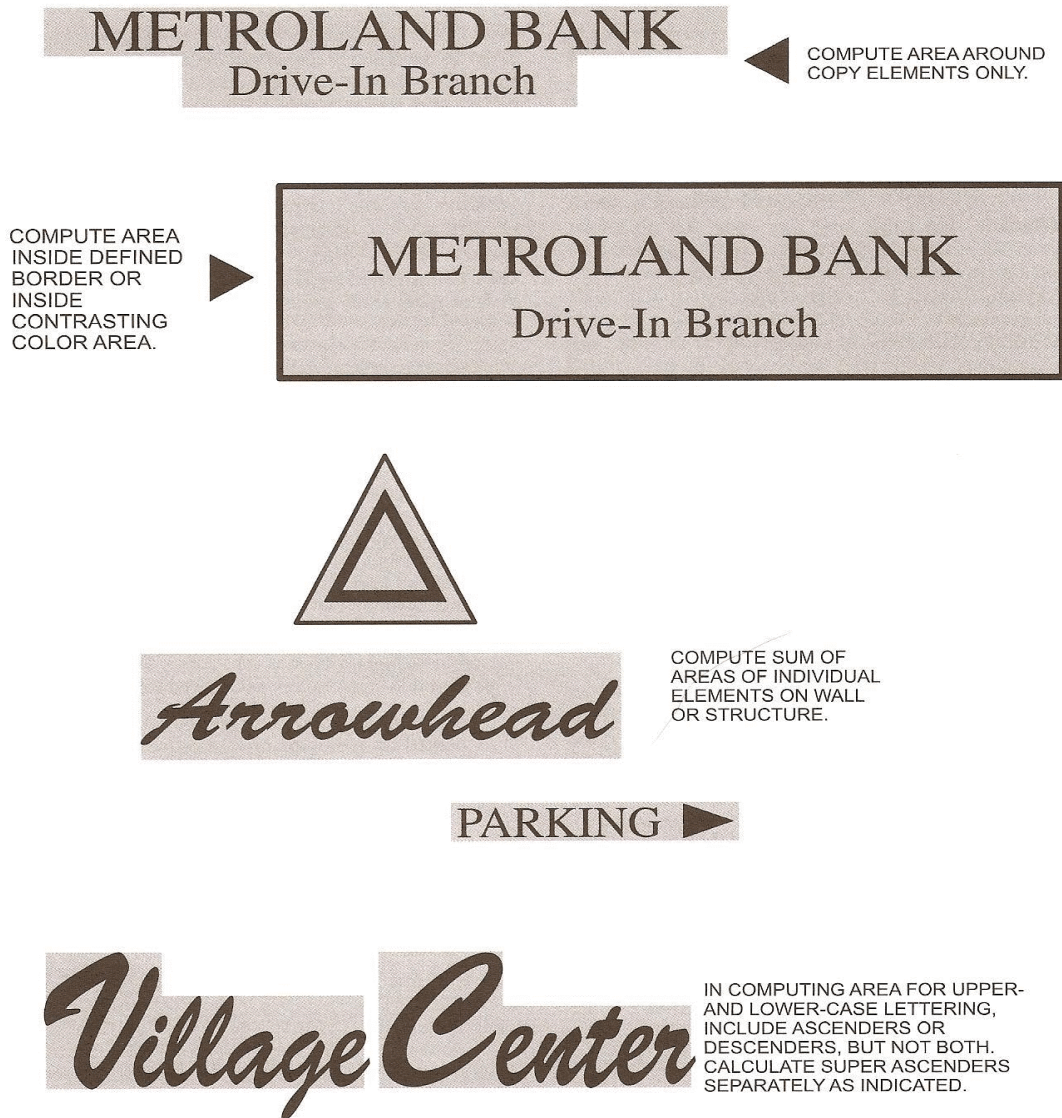
General Sign Types Figure 2-8.8 (B)



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Computing Sign Area Figure 2-8.8(C)

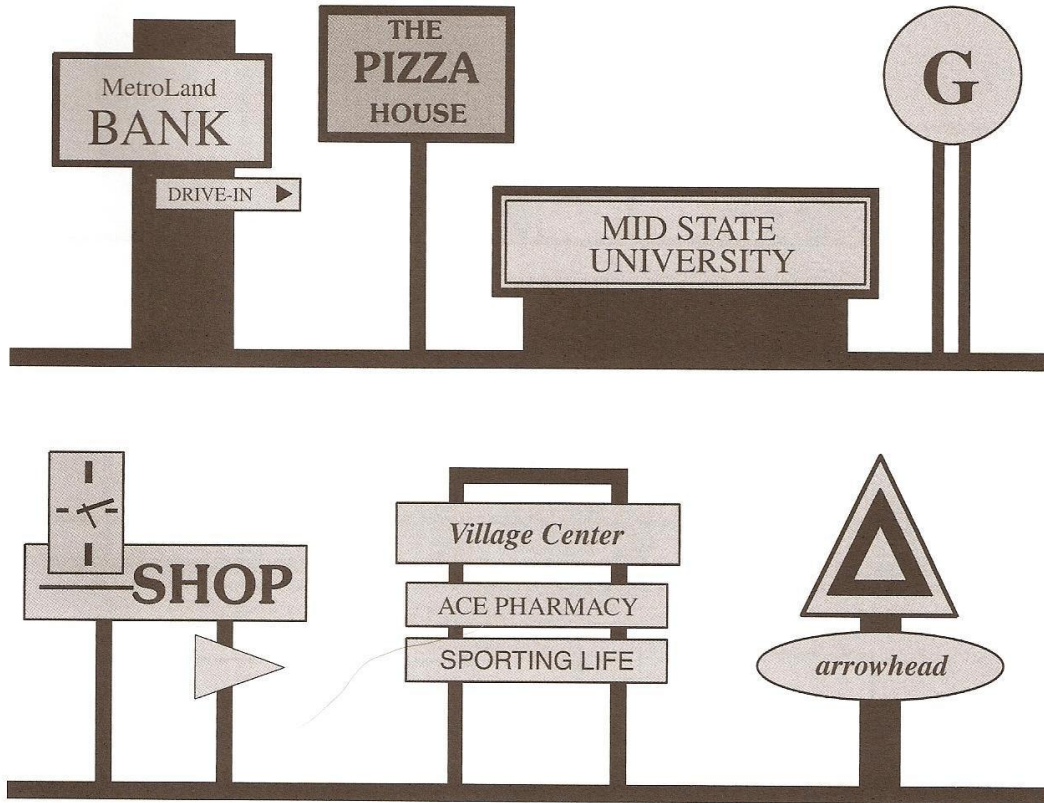


Notes: Sum of shaded areas only represents sign area for code compliance purposes. Examples of signs consisting of individual letters, elements or logos placed on building walls or structures.

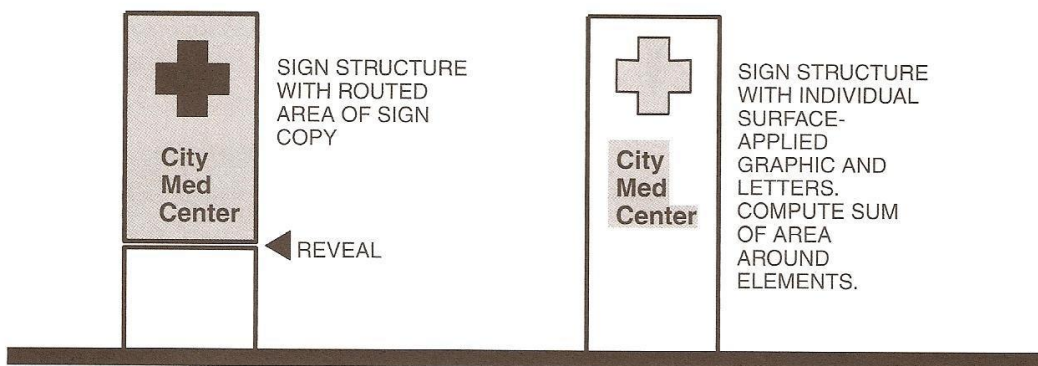
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Computing Sign Area Figure 2-8.8(D)



SIGN STRUCTURES



Notes: Sum of shaded areas only represents sign area. Sign constructed with panels or cabinets.

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Section 2-9: Group Homes

2-9.1 PURPOSE

2-9.2 REQUIREMENTS

2-9.3 DESIGN

2-9.4 FEES AND FINANCIAL CAPABILITY

2-9.5 EXEMPTIONS

2-9.6 STANDARDS AND CONDITIONS

2-9.7 LICENSES, PERMITS, CERTIFICATIONS, AND COMPLIANCE

2-9.8 PROCEDURE

2-9.9 SEVERABILITY

Appendix A: CONGREGATE LIVING FACILITY CHECKLIST

2-9.1 PURPOSE: To allow for the continuation of low density residential neighborhoods and to discourage an over-concentration of congregate living facilities that tends to create an "institutional" rather than a "residential" atmosphere in the Town's neighborhoods and the Town shall conduct the following analysis:

1. Distinguish between facilities providing residential services to the disabled or to the elderly and other congregate living facilities, such as youth homes;
2. Avoid the institutionalization of residential neighborhoods and create an environment that will facilitate the "mainstreaming" of persons with disabilities and elderly persons into a "normalized" residential environment;
3. Provide an opportunity for congregate living facilities to be located within the Town;
4. Establish zoning uses, standards, and practices which will not have the effect of discriminating against congregate living arrangements of unrelated people with disabilities or the elderly; and
5. Require a separation by at least one-quarter mile between facilities that is necessary to provide an adequate mixture of residential housing types to meet the needs of maintaining a "normalized" residential environment, while still providing adequate alternatives for the establishment of such housing throughout the community;

2-9.2 REQUIREMENTS

- A. **Residential Facility for the Disabled** is defined as a facility that is occupied on a 24-hour per day basis in a family-type arrangement under the supervision of a house family or manager, and that

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conforms to all applicable standards and requirements of and is licensed by the Utah Department of Human Services - Division of Services for People with Disabilities and is operated by or under contract with that department. Such facilities are not Residential Treatment Facilities and shall not include facilities for the following: secure treatment, inpatient treatment, residential treatment, adult day care, day treatment, comprehensive mental health treatment, comprehensive substance abuse treatment, or domestic violence treatment as defined by Utah law.

1. A residential facility for persons with a disability is permitted in all zones. The application for a residential facility for persons with a disability shall include sufficiently detailed site plans, building plans or remodeling plans, and all other information necessary to determine compliance with building, safety and health regulations and standards applicable to similar dwellings. Any alterations must be reviewed and recommended by the Planning Commission before a building permit is approved. Additionally, the facility shall conform to all applicable building, fire, health and safety codes and requirements for facilities of this type.
2. A residential facility for persons with a disability is subject to the Cleveland zoning ordinance, the standards contained herein, and the exemptions below.
3. A residential facility for persons with a disability shall not have any structural or landscaping alterations that would change the structure's residential character.
4. A residential facility for persons with a disability shall be limited to five (5) persons unrelated to the owner or provider.
5. A residential facility for persons with a disability shall not be located within a radius of a quarter (1/4) mile of another existing congregate living facility inside or outside of Cleveland Town limits.

- B. Residential Facility For The Elderly** is defined as a facility that is occupied on a 24-hour per day basis in a family-type arrangement under the supervision of a house family or manager, and that conforms to all applicable standards and requirements of and is licensed by the appropriate licensing Department of the State of Utah and is operated by or under contract with that department. A residential facility for the elderly is not a residential treatment facility and shall not include facilities for the following: secure treatment,

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inpatient treatment, residential treatment, adult day care, day treatment, comprehensive mental health treatment, comprehensive substance abuse treatment, or domestic violence treatment as defined by Utah law.

1. A residential facility for the elderly is permitted in all zones. The application for a residential facility for the elderly shall include sufficiently detailed site plans, building plans or remodeling plans, and all other information necessary to determine compliance with building, safety and health regulations and standards applicable to similar dwellings. Any alterations must be reviewed and recommended by the Planning Commission before a building permit is approved. Additionally, the facility shall conform to all applicable building, fire, health and safety codes and requirements for facilities of this type.
2. A residential facility for the elderly is subject to the Cleveland zoning ordinance, the standards contained herein, and the exemptions below.
3. A residential facility for the elderly shall not have any structural or landscaping alterations that would change the structure's residential character.
4. A residential facility for the elderly shall be limited to five (5) persons unrelated to the owner or provider.
5. A residential facility for the elderly shall not be located within a radius of a quarter (1/4) mile of another existing congregate living facility inside or outside of the Town limits.

C. Youth Home is defined as a 24-hour group living environment for three (3) to five (5) persons under the age of 18, unrelated to an owner or provider that offers room, board or specialized services to residents. Youth Home may include facilities for the following: resource family home, child placement, or residential support as defined by Utah law.

1. A youth home is permitted in all zones. The application for a youth home shall include sufficiently detailed site plans, building plans or remodeling plans, and all other information necessary to determine compliance with building, safety and health regulations and standards applicable to similar dwellings. Any alterations must be reviewed and recommended by the Planning Commission before a building permit is approved. Additionally, the facility shall conform to all applicable building, fire, health and safety

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codes and requirements for facilities of this type.

2. A youth home is subject to the Cleveland zoning ordinance, the standards contained herein, and the exemptions below.
3. A youth home shall not have any structural or landscaping alterations that would change the structure's residential character.
4. Youth homes shall be limited to five (5) persons under the age of 18 who are unrelated to the owner or provider of the youth home.
5. A youth home shall not be located within a radius of a quarter (1/4) mile of another existing congregate living facility inside or outside of Cleveland Town limits.

2-9.3 DESIGN

- A. Any conversion of buildings or new construction of a congregate living facility shall require that the development standards of the Cleveland Town zoning ordinance be met.
- B. Any conversion of existing buildings or uses to a congregate living facility must provide at least thirty percent (30) of the area as open green space or playground and at least two parking spaces per residential unit and adequate off street parking spaces for the staff and visitors of the facility as determined by the Town Council. The Town Council may reduce the parking requirement as part of the conditional use approval upon a finding that less parking will meet the needs of the public and the proposed program.
- C. The Planning Commission and Town Council shall consider the General Plan of the Town, protection of permitted uses in underlying zones, and the aesthetics of any proposed building in making its recommendations and/ or approval for any congregate living facility.

2-9.4 FEES AND FINANCIAL CAPABILITY

- A. The applicant for a permit or license to operate a congregate living facility shall pay the applicable license and permit fees as set by the Town Council. Applicant shall also provide proof of financial capability to insure timely restitution to any member of the public suffering damage as a result of intentional or negligent conduct by members of the staff or residents of the facility. Proof of financial capability may take the form of insurance, bonds, or financial reserves. Proof of financial capability shall be resubmitted to the

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Town annually or sooner if significantly changed.

2-9.5 EXEMPTIONS

- A. No congregate living facility shall include facilities which house persons being treated for alcoholism or drug abuse, persons who have committed violent crimes, who are not voluntarily residing therein, or who are residing therein as a part of or in lieu of confinement, rehabilitation or treatment in a correctional or other facility.

2-9.6 STANDARDS AND CONDITIONS

- A. **Conditions.** The Cleveland Town Planning Commission may apply conditions upon a conditional use permit to operate a youth home or a residential facility for persons with a disability or a residential facility for the elderly it deems to be in harmony with the General Plan and in the best interests of the health, safety and welfare of the Town, including but not limited to the following conditions:
1. A community impact study shall be provided by the applicant as part of the application for the conditional use permit. This study shall specifically describe the programs provided and evaluate the impact of the congregate living facility on local schools, the Town's economy and economic resources, the tax revenue of the Town, the Town's infrastructure including sewer concerns, public safety and law enforcement, traffic, aesthetics, tourism, and neighboring properties and businesses, including the impact on property values, if any, and the impact of any other uses within or proposed within the same building to be used as a congregate living facility.
 2. A minimum of 1,000 feet must be maintained between congregate living facilities and establishments licensed to sell beer or alcoholic beverages.
 3. The application for a business license shall include the following:
 - a) proof of cleared background (Department of Criminal Investigations) checks for all staff that will have direct contact with consumers;
 - b) written job descriptions including specific duties and responsibilities and the minimum level of education, training, and work experience required;
 - c) business plan;

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- d) references including educational background, training, and relevant experience of the manager of the facility; and
 - e) an educational plan, including a letter from an authorized accreditation organization stating their intent to accredit the facility's educational program.
- 4. The facility shall have twenty-four hour per day supervision by trained and qualified personnel, with a daytime ratio of at least one (1) supervisor to four (4) residents and an evening ratio of at least one supervisor to eight (8) residents.
- 5. Staff shall include the following professionals
 - a) a licensed physician, or consulting licensed physician,
 - b) a licensed psychologist, or consulting licensed psychologist,
 - c) a licensed mental health therapist,
 - d) a licensed advanced practice registered nurse-psychiatric mental health nurse specialist, or a consulting advanced practice registered nurse-psychiatric mental health nurse specialist, and
 - e) if unlicensed staff are used, they shall be supervised by a licensed clinical professional.
- 6. The facility's behavior management policy shall be provided to all staff, and staff shall receive training relative to behavior management annually, or more often if needed.
- 7. The facility shall provide 24 hour supervision of the residents by an adult of the same sex and at least ten (10) years older than the oldest youth resident.
- 8. The number of residents in the facility shall not increase above the number allowed in the conditional use permit unless an amendment to the permit is reviewed and approved by the Town. Any request for amendment shall be accompanied by the study described in (b) above.
- 9. Facility shall report to the Town on the first of each month all incidents required to be reported to the Department of Human Services.
- 10. Facility shall report as quickly as possible, but not later than within 24 hours, any escape, violent incident, or crime occurring at the facility to local law enforcement.

2-9.7 LICENSES, PERMITS, CERTIFICATIONS, AND COMPLIANCE

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A. Business License Required.

1. To operate a residential facility for persons with disabilities, as licensed by the Department of Human Services, Division of Services for Persons with Disabilities, or to operate a residential facility for the elderly, as licensed by the State of Utah Department of Human Services, or to operate a youth home as licensed by the State of Utah Department of Human Services, the owner or provider shall be required to maintain a valid business license with Cleveland Town.

B. Residential Facility for Persons with a Disability; State of Utah Department of Human Services, Utah Division of Services for People with Disabilities License or Certification Required.

1. Applicants must verify, with documentation to the Planning Commission and Town Council, compliance with all applicable requirements, regulations and standards of the State of Utah Department of Human Services governing the licensing and operation of residential facilities for persons with a disability. At the time of application for a permit and/or business license to establish a residential facility for persons with a disability or within 60 days following approval of a residential facility for persons with a disability by the Cleveland Town Council, the applicant shall provide to the Cleveland Town recorder evidence that the facility is licensed or certified by the Department of Human Services, Division of Services For People with Disabilities or the Town shall not issue any business license required to operate a residential facility for persons with a disability, until such evidence is provided. Failure to provide such evidence shall also be grounds for the Town to initiate proceedings to revoke any valid Town approvals for a residential facility for persons with a disability.

C. Residential Facility for the Elderly; State of Utah Department of Human Services License or Certification Required.

1. Applicants must verify, with documentation to the Planning Commission and Town Council, compliance with all applicable requirements, regulations and standards of the State of Utah Department of Human Services governing the licensing and operation of residential facilities for the elderly. At the time of application for a permit and/or business license to establish a

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residential facility for persons with a disability or within 60 days following approval of a residential facility for persons with a disability by the Cleveland Town Council, the applicant shall provide to the Cleveland Town recorder evidence that the facility is licensed or certified by the Department of Human Services or the Town shall not issue any business license required to operate a residential facility for the elderly, until such evidence is provided. Failure to provide such evidence shall also be grounds for the Town to initiate proceedings to revoke any valid Town approvals for a residential facility for the elderly.

D. Youth Home; State of Utah Department of Human Services License or Certification Required.

1. Applicants must verify, with documentation to the Planning Commission and Town Council, compliance with all applicable requirements, regulations and standards of the State of Utah Department of Human Services governing the licensing and operation of youth homes. At the time of application for a permit and/ or business license to establish a youth home or within 60 days following approval of a youth home by the Cleveland Town Council, the applicant shall provide to the Cleveland Town Recorder evidence that the facility is licensed or certified by the appropriate department of the State of Utah or the Town shall not issue any business license required to operate a youth home, until such evidence is provided. Failure to provide such evidence shall also be grounds for the Town to initiate proceedings to revoke any valid Town approvals for a youth home.

E. Continued Licensure or Certification Requirements of the State of Utah.

1. Operation of a residential facility for persons with a disability requires continued compliance, without interruption, with the Licensure Department of Human Services, Division of Services for People with Disabilities. The responsibility to certify or license programs or owners or providers which operate residential facilities for persons with a disability, as well as require and monitor the provision of adequate services to consumers residing in these facilities shall rest with the

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Department of Human Services, Division of Services for People with Disabilities.

Operation of a residential facility for the elderly requires continued compliance, without interruption, with the State Department of Human Services. The responsibility to license programs or entities which operate residential facilities for the elderly, as well as to monitor the provision of adequate services to persons residing in these facilities shall rest with the Department of Human Services.

The responsibility to license programs or entities which operate youth homes, as well as to monitor the provision of adequate services to persons residing in those facilities shall rest with the Department of Human Services.

F. Special Provisions for Congregate Living Facilities.

1. A permit to operate a congregate living facility as regulated by this section shall be;
 - a) Subject to a nontransferable business license; and
 - b) terminated if at any time it is demonstrated to the Town Council, that:
 - (i) The structure is devoted to a use other than the Town approved use; or
 - (ii) The structure fails to comply with the requirements of this section; or
 - (iii) The program has failed to operate in accordance with the requirements of this section; or
 - (iv) The applicant has not obtained and maintained, without interruption, all licenses from the State of Utah required to operate and provided the Town with proof of such licenses. If the license issued by the State of Utah expires, the Town business license will automatically become void and the facility must close.
 - c) Application for reinstatement of a Town permit or business license must be made to the Town Council and will be subject to approval by that

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body.

2. A congregate living facility shall be occupied on a twenty-four hour basis by no more than the maximum number of people allowed per the International Building Code for egress requirements, which will include all supervisors and staff.
3. Any conditional use permit for a congregate living facility shall be for a specified number of individuals.

G. License Nontransferable.

1. Conditional use permits granted to congregate living facilities shall expire upon the expiration, revocation, or surrender of any Town business license, State of Utah license, or other regulatory license of the facility.
2. A business license to operate a residential facility for persons with a disability, as authorized by this chapter, is nontransferable and shall only be valid to the owner or provider identified on a valid Town business license permit authorizing the operation of a residential facility for persons with a disability and identified as the owner or provider as licensed or certified by the Department of Human Services, Division of Services For People with Disabilities.
3. A business license to operate a residential facility for the elderly, as authorized by this chapter, is nontransferable and shall only be valid to the owner or provider identified on a valid Town business license permit authorizing the operation of a residential facility for the elderly and identified as the owner or provider as licensed or certified by the appropriate division of the State of Utah as required by this section.
4. A business license to operate a youth home, as authorized by this chapter, is nontransferable and shall only be valid to the owner or provider identified on a valid Town business license permit authorizing the operation of a youth home and identified as the owner or provider as licensed or certified by the appropriate division of the State of Utah as required by this section.

2-9.8 PROCEDURE

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- A. Checklists.** Anyone desiring to procure a Cleveland Town permit and/or license to operate a residential facility for the disabled or the elderly, or a youth home, shall begin the process by completing the Congregate Living Facility Checklist (Appendix A), consulting with the Cleveland Town recorder. When the checklist has been reviewed and deemed complete by the Town recorder, the applicant may be placed on the agenda of the next regular meeting of the Planning Commission.
- B. Planning Commission Approval.** The Planning Commission will hear the applicant's proposal, review the checklist and all required documentation, and determine whether or not it is in harmony with the Cleveland Town General Plan and in compliance with the Cleveland Town zoning ordinance and State and Town standards for granting a conditional use permit. The Planning Commission shall then approve, deny or approve with conditions. Any specific conditions shall be placed on the permit, in writing at the time of approval.
- C. Town Council to Issue Business License.** If the Planning Commission approves a conditional use permit for a congregate living facility the applicant may then supply the necessary documentation and request a business license to operate the facility.

2-9.9 SEVERABILITY

If any portion of this ordinance is held to be unconstitutional, invalid, or unenforceable, the remainder of this ordinance shall be deemed severable and shall not be affected, and this ordinance shall remain valid.

Appendix A CONGREGATE LIVING FACILITY CHECKLIST

Before an applicant may be placed on the agenda for a Planning Commission meeting, the Town Recorder must verify that all of the following documentation has been received by the Town:

- § Written verification of Department of Criminal Investigations clearance for the facility's operator and any other persons who are to have direct contact with minors or vulnerable adults in a congregate living facility.
- § Concept plan for facility
- § Documented proof of ownership of the land, or a valid lease where the

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facility is to be located.

- \$ If the facility provides schooling for minor consumers, written verification of curriculum approval from the Utah State Office of Education.
- \$ Copies from the appropriate licensing department of the state of any written complaints, including employee grievances, against the applicant or facility applying for a business license.
- \$ If incorporated, applicant must provide proof of active corporation status, in good standing, including corporation existence, from the Utah Department of Commerce.
- \$ Letter of intent from the State Department who will license the facility.
- \$ Where appropriate, supply documents which comply with Human Services Core Standards R501-2-6 and R501-2-7 (what must be available for public inspection).
- \$ Eligibility and/or intake policy outlining the reasons a facility would consider accepting new consumers.
- \$ A written statement from State Board of Education or the National School Accreditation Board verifying accreditation shall be provided, if applicable.
- \$ Verification of licensure (Utah Dept. of Professional Licensing number) for medical personnel, therapists and/or social workers, and teachers.
- \$ Organizational chart including the names of the applying facility's Board of Directors.

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Section 2-10: Subdivisions

2-10.1 PURPOSE

2-10.2 PROCESS

2-10.3 EXEMPTIONS FROM PLAT NECESSITY

2-10.4 MINOR SUBDIVISIONS

2-10.5 MAJOR SUBDIVISIONS

2-10.6 CONDOMINIUMS

2-10.7 LOT LINE ADJUSTMENTS

2-10.8 VACATION OR AMENDMENT OF PLATS

2-10.1 PURPOSE. The purposes of this chapter are to:

- § Protect and provide for the public health, safety, and general welfare of Cleveland Town.
- § Guide the future growth and development of Cleveland Town, in accordance with the General Plan.
- § Encourage the orderly and beneficial development of land within the municipality.
- § Protect the integrity of buildings, land and improvements, and to minimize the conflicts among the uses of land and buildings.
- § Provide a beneficial relationship between the uses of land, buildings, traffic circulation and the proper location and width of streets and building setbacks.
- § Establish reasonable standards of design and procedures for subdivisions, condominium plats, plat amendments, and lot line adjustments, in order to further the orderly layout and use of land; and to insure proper legal descriptions and recordation of subdivided land.
- § Insure that public facilities are available and will have a sufficient capacity to serve the proposed subdivision.
- § Encourage the wise use and management of natural resources in order to preserve the integrity, stability and aesthetics of the community.
- § Continue the rural development pattern of the Town and variety of structural design within residential zones. Provide for open spaces through the most efficient design and layout of the land, while preserving the density of land as established in the Cleveland Town Land Use Code. It is highly recommended that historic street patterns are followed whenever possible.

2-10.2 PROCESS. This Chapter adopts and incorporates the definitions of terms found in **Chapter 2-2 Definitions** of this title and distinguishes between several processes of subdivision and land division including all subdivisions, condominium plats, plat amendments, plat vacations, and lot line adjustments. This process involves:

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- 1) **COSTS.** All costs incurred by the Town in reviewing, approving and monitoring the subdivision process, including legal costs and engineering costs for reviewing and testing compliance, shall be assessed against the subdivider, and approval may be conditioned upon deposit of sufficient sums to cover such costs.
- 2) **INITIAL CONTACT.** An applicant for a subdivision, condominium plat, plat amendment, lot line adjustment or plat vacation shall contact the Town Planning Commission to discuss the scope and purpose of the application and the requirements of this chapter.
- 3) **PRELIMINARY REVIEW.** The applicant shall provide the Planning Commission drawings in sufficient detail to allow review of the proposal for compliance with this section and to direct the applicant to the appropriate process. Preliminary drawings shall be submitted to the Town Recorder's Office five (5) business days prior to the next regularly scheduled planning commission meeting.
- 4) **ADMINISTRATIVE REVIEW.** The Planning Commission shall review each complete proposal and may seek the advice and input of other Town staff, municipal departments, and /or utility providers, Town Attorney and other qualified representatives of the Town. The review shall include, but not be limited to the following:
 - (a) Does the application meet the requirements of this code?
 - (b) Are all the lots suitable for building?
 - (c) Are hazardous areas or conditions present, and if so, have the conditions been abated?
 - (d) Do all lots border public streets?
 - (e) Is the subdivision consistent with the General Plan?
 - (f) Will the development enhance the character and aesthetics of the community?
 - (g) Are soil samples, percolation tests, geo-technical analysis etc., necessary on this property?
- 5) **PLANNING COMMISSION RECOMMENDATION.** The Planning Commission shall review in a public meeting the application to determine compliance with this zoning ordinance and recommend its approval, denial, or modification to the Town Council.

TOWN COUNCIL PUBLIC MEETING. The Town Council shall hold a public meeting based on the Planning Commission recommendation on the application, and shall approve, deny or approve with conditions. The Town may impose an exaction or exactions on proposed land use development if:

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- (1) an essential nexus exists between a legitimate governmental interest and each exaction; and
- (2) each exaction is roughly proportionate, both in nature and extent, to the impact of the proposed development.

6) **DEFINITION OF PROPERTY LINES FOR UTILITY**

REQUIREMENTS. For the purposes of **Chapter 2-10** only, the following definitions shall apply:

- a. ***Minor Subdivisions.*** For purposes of water connections, the property line is defined as that property line of a lot or parcel of land that fronts on a dedicated street where water is existing in the street. Water will be considered at the property line in a minor subdivision if it is within 120 feet, either perpendicular or parallel to a property line. Connection fees will be collected when a building permit is issued to the property owner. Electricity is required to be brought to the deeded property line of each lot or parcel by the applicant. More than one lot or parcel may be serviced from one pole based on recommendations and specifications from the utility provider. A drop line must be at each lot, but a single line can feed more than one lot.
- b. ***Subdivisions (10 or more lots).*** All Town required utilities, to include electricity and water, shall be required to be stubbed to each lot where meter placement would occur by the property owner. Connection fees will be collected at building permit issuance.

7) **ENGINEERING STUDIES.** The Town may require engineering studies including but not limited to: soil samples, percolation tests, geo-technical studies etc.

8) **DEVELOPER'S COSTS.** The developer will pay for all improvements in minor and major Subdivisions, except that the Town may negotiate with the developer, at the developer's request, to pay some or all of the improvements, if the subdivision falls within the Town's capital improvements plan or if the Town deems it is in the best interest of the general public to do so.

2-10.3 EXEMPTIONS FROM PLAT NECESSITY.

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- 1) An applicant may submit to the County Recorder's Office for recording a document that subdivides property by metes and bounds into less than ten (10) lots if:
 - a. The Planning Commission has given the Town Council its recommendation, whether favorable or not; and
 - b. The document contains a certificate or written approval from the Town Council. A record of survey is still required under this process by Utah State law.
- 2) By indicating its approval on the document subdividing the property into less than ten (10) lots, the Town Council certifies that:
 - a. The Planning Commission has given its recommendation to the Town Council;
 - b. The subdivision is not traversed by the mapped lines of a proposed street as shown in the general plan and does not require the dedication of any land for street or other public purposes; and
 - c. If the subdivision is located in a zoned area, each lot in the subdivision meets the frontage, width and area requirements of the zoning ordinance or has been granted a variance from those requirements by the Appeal Authority.
- 3) Documents recorded in the County Recorder's Office that divide property by metes and bounds description do not create a subdivision allowed hereunder unless the certificate of written approval required by Subsection 1, above, is attached to the document.
- 4) The absence of the certificate or written approval from the Town Council does not affect the validity of the recorded document.
- 5) A document which does not meet the requirements of this section may be corrected to comply with this section by recording an affidavit to which the required certificate or written approval is attached.
- 6) For purposes of this section:
 - a. "Document" includes, but is not limited to, a deed or other written conveyance that transfers the property creating a simple lot or minor subdivision;

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- b. “Certificate” or “written approval” means a document signed by the Mayor and Town Recorder, verifying that the subdivision has been approved by the Town Council at a regular or special meeting of the Town Council during which the subdivision was presented, discussed and approved.

The form of certificate or written approval required herein is located at the Town Offices entitled: “Cleveland Town Subdivision Recordation Certificate”.

2-10.4 MINOR SUBDIVISIONS (LESS THAN 10 LOTS).

An applicant may subdivide property into any number of lots or parcels of less than ten (10) provided that any proposed lots or parcels front an improved and dedicated public street and comply with the applicable zone standards.

An applicant may qualify for a minor subdivision when a dedicated street exists, if said street is in need of some or all improvements. Provided that the developer is willing to post a bond or other security accepted by the Town of Cleveland, in the amount of one hundred (100%) percent of the required improvements, and the total number of lots or parcels is less than ten (10).

The applicant for a minor subdivision shall submit an application form to the Town Recorder’s Office. After administrative review by the Planning Commission Chairman or Assistant Chairman, the applicant shall submit a preliminary plat to the Planning Commission for its consideration. The applicant must comply with **Chapter 2-11 General Design Standards For Subdivisions** of this title, for design standards and infrastructure requirements of a subdivision.

- 1) **CONCEPT PLAT REVIEW.** The applicant shall prepare and submit five (5) copies of a concept plat of the proposed subdivision. The concept plat shall include:

- a. A minimum scale of 1” =50’;
- b. The proposed streets, alleys, parks, open spaces and other offers of public dedications showing widths and pertinent dimensions of each;
- c. Existing rights-of way and easement grants of record for streets, underground utilities and other public purposes;
- d. A north arrow facing the top of right margin;
- e. A date on each sheet;

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- f. The boundary dimensions and legal description of the subdivision;
 - g. The location, width, and other dimensions of all existing or platted streets and other important features such as utility lines, and exceptional topography and structures within the proposed subdivision and within a two hundred foot (200') perimeter of the proposed subdivision;
 - h. The proposed subdivision name;
 - i. The name and address of the applicant, engineer or surveyor for the subdivision and of the owners of the land to be subdivided.
- 2) **NOTICE.** The applicant shall provide the Town with two (2) sets of type written address labels, together with sufficient funds to cover related postage costs, to all property owners within three hundred (300) feet of the proposed subdivision. Such notice shall be mailed at least seven (7) days prior to the Planning Commission's formal consideration of the preliminary plat. Notice of subdivisions for multi residential, commercial, or industrial development shall be provided to affected entities as required under this section.
- 3) **PLANNING COMMISSION PUBLIC HEARING.** The Planning Commission shall hold a public hearing on the preliminary plat by providing reasonable notice of the public hearing at least 14 days before the date of the public hearing. After holding a public hearing the planning commission shall determine if the application meets the requirements of this code.
- 4) **PLANNING COMMISSION CONSIDERATION.** Upon review and consideration of the preliminary plat for compliance with this code, at a meeting called for such purpose, the Planning Commission shall recommend its approval, denial, or approval with conditions to the Town Council. Such decision shall be made within 45 days of said meeting.
- 5) **TOWN COUNCIL PUBLIC MEETING.** The Town Council shall hold a public meeting within forty-five (45) days of the Planning Commissions recommendation and shall approve, deny or conditionally approve the preliminary plat. The council may call for a public hearing at their discretion.
- 6) **FAILURE TO RECORD.** Failure to record a final plat within one year of approval of the preliminary plat by the Cleveland Town Council shall render

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the preliminary plat null and void. In such case, the applicant must commence the subdivision process anew.

- 7) FINAL SUBDIVISION PLAT REVIEW.** Upon Planning Commission recommendation and Town Council approval of the preliminary plat, the applicant shall prepare and submit to the Planning Commission a final plat of three (3) paper copies with dimensions of 24" x 36", and one (1) 8 ½" x 11" copy. The final plat shall include:
- a. A minimum scale of 1" = 50';
 - b. The proposed streets, alleys, parks, open spaces and other offers of public dedications, showing widths and pertinent dimensions as well as points of intersection of each;
 - c. Existing rights-of-way and easement grants of record for streets, underground utilities and other public purposes;
 - d. A north arrow facing the top of right margin;
 - e. A date on each sheet;
 - f. The boundary dimensions and legal description of the subdivision and each lot therein, with the point of beginning clearly labeled;
 - g. The acreage or square footage for all parcels or lots and the length and width of the blocks and lots intended for sale;
 - h. A legend of symbols;
 - i. All survey monuments and proposed hydrant locations;
 - j. The streets indicating numbers and/or names and lots numbered consecutively;
 - k. The location, width, centerline bearings and curve data (including delta angle, radius, length, tangent and the long cord on curves) and other dimensions of all existing, proposed or platted streets and easements;
 - l. A similar description of important features such as utility lines and exceptional topography and structures within the proposed subdivision and within a two hundred foot (200') perimeter of the subdivision. Utility features must appear on the plat;
 - m. The streets, lots, and properties within two hundred feet (200') surrounding the subdivision shown in ghost lines;
 - n. A proposed subdivision name;
 - o. Approvals, Acceptance and Certificates:

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- i. Owner's dedication and acknowledgment;
 - ii. Surveyor's stamped certificate with subdivision boundary legal description;
 - iii. Town Engineer's (or designee) approval;
 - iv. Southeastern Utah Health District Sanitation approval;
 - v. Castle Valley Special Service District's certificate of approval, the culinary water authority;
 - vi. Planning Commission acceptance;
 - vii. Town Council's approval as to form;
 - viii. County Recorder's certificate.
- p. The name and address of the applicant, engineer, or surveyor for the proposed subdivision and owners of the land to be subdivided.

8) APPROVAL OF FINAL SUBDIVISION PLAT. Upon a determination that the proposed plat is consistent with the General Plan and upon receipt of the owners' tax clearance, and written approval from the culinary water authority and irrigation authority, the Town Council may approve a final subdivision plat as provided above. At this time the developer shall provide one (1) Mylar copy of the plat with all the appropriate signatures, that will be considered the final plat for the subdivision.

9) IMPROVEMENTS. Subdivision improvements must be completed within one (1) year of recordation of the final subdivision plat, unless such time as extended by the Cleveland Town Council.

10) PUBLIC IMPROVEMENTS SECURITY. A security arrangement shall be one of the following types as dictated by the Town:

- (a). A bond with a surety company licensed to do business in the State of Utah; or
- (b). An irrevocable letter of credit with a federally insured financial institution; or
- (c). A cashier's check made payable only to the Town; or
- (d). A trust or escrow account with a federally insured financial institution designating the Town as beneficiary.

Any interest accruing on escrowed funds shall, unless expended for completion of site improvements required, inure to the benefit of the

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developer and not to the Town. The Town shall not be required to pay interest to the developer on any non-interest bearing escrow account established for this purpose.

11) INSPECTIONS. The Planning Commission Chairman or his/her designee shall inspect the subdivision development during construction through its completion.

12) OWNERS DUTY TO RECORD PLAT. The owner(s) of an acknowledged, certified and approved plat shall record the plat in the County Recorder's office. An applicant's failure to record a final plat within one year of Town Council approval shall render the plat null and void. In such case, the applicant must commence the subdivision process anew.

2-10.5 MAJOR SUBDIVISIONS (10 OR MORE LOTS). The applicant for a major subdivision shall submit an application to the Town Recorder's Office. After administrative review by the Planning Commission Chairman or assistant chairman, the applicant shall submit a preliminary plat to the Planning Commission for its consideration. The applicant must comply with **Chapter 2-11 General Design Standards For Subdivisions** of this title, for design standards and infrastructure requirements of a subdivision.

- 1) PRELIMINARY PLAT REVIEW.** The applicant shall prepare and submit three (3) copies of a preliminary plat of the proposed subdivision. The preliminary plat shall include:
- a. A minimum scale of 1" = 50';
 - b. The proposed streets, alleys, parks, open spaces and other offers of public dedications showing widths and pertinent dimensions of each;
 - c. Existing rights-of way and easement grants of record for streets, underground utilities and other public purposes;
 - d. A north arrow facing the top of right margin;
 - e. A date on each sheet;
 - f. The boundary dimensions and legal description of the subdivision;
 - g. The location, width, and other dimensions of all existing or platted streets and other important features such as utility lines, and exceptional topography and structures within the proposed

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subdivision and within a two hundred foot (200') perimeter of the proposed subdivision;

- h. The proposed subdivision name;
 - i. The name and address of the applicant, engineer or surveyor for the proposed subdivision and of the owners of the land to be subdivided.
- 2) **NOTICE.** The applicant shall provide the Town with two (2) sets of type written address labels, together with sufficient funds to cover related postage costs, to all property owners within three hundred (300) feet of the proposed subdivision. Such notice shall be mailed at least seven (7) days prior to the Planning Commission's formal consideration of the preliminary plat. Notice of subdivisions for multi residential, commercial, or industrial development shall be provided to affected entities as required by Utah State law.
- 3) **PLANNING COMMISSION PUBLIC HEARING.** The Planning Commission shall hold a public hearing on the preliminary plat by providing reasonable notice of the public hearing at least 14 days before the date of the public hearing. After holding a public hearing the planning commission shall determine if the application meets the requirements of this code.
- 4) **PLANNING COMMISSION CONSIDERATION.** Upon review and consideration of the preliminary plat for compliance with this code, at a meeting called for such purpose, the Planning Commission shall recommend its approval, denial, or approval with conditions to the Town Council. Such decision shall be made within 45 days of said meeting.
- 5) **TOWN COUNCIL PUBLIC MEETING.** The Town Council shall hold a public meeting within forty-five (45) days of the Planning Commissions recommendation and shall approve, deny or conditionally approve the preliminary plat. The council may call for a public hearing at their discretion.
- 6) **FAILURE TO RECORD.** Failure to record a final plat within one year of approval of the preliminary plat by the Cleveland Town Council shall render the preliminary plat null and void. In such case, the applicant must commence the subdivision process anew.
- 7) **FINAL SUBDIVISION PLAT REVIEW.** Upon Planning Commission recommendation and Town Council approval of the preliminary plat, the

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applicant shall prepare and submit to the Planning Commission a final plat of three (3) paper copies with dimensions of 24" x 36", and one (1) 8 ½" x 11" copy. The final plat shall include:

- a. A minimum scale of 1" = 50';
- b. The proposed streets, alleys, parks, open spaces and other offers of public dedications, showing widths and pertinent dimensions as well as points of intersection of each;
- c. Existing rights-of-way and easement grants of record for streets, underground utilities and other public purposes;
- d. A north arrow facing the top of right margin;
- e. A date on each sheet;
- f. The boundary dimensions and legal description of the subdivision and each lot therein, with the point of beginning clearly labeled;
- g. The acreage or square footage for all parcels or lots and the length and width of the blocks and lots intended for sale;
- h. A legend of symbols;
- i. All survey monuments and proposed hydrant locations;
- j. The streets indicating numbers and/or names and lots numbered consecutively;
- k. The location, width, centerline bearings and curve data (including delta angle, radius, length, tangent and the long cord on curves) and other dimensions of all existing, proposed or platted streets and easements;
- l. A similar description of important features such as utility lines and exceptional topography and structures within the proposed subdivision and within a two hundred foot (200') perimeter of the subdivision. Utility features must appear on the plat;
- m. The streets, lots, and properties within two hundred feet (200') surrounding the subdivision shown in ghost lines;
- n. A proposed subdivision name with ;
 - i. Owner's dedication and acknowledgment;
 - ii. Surveyor's stamped certificate with subdivision boundary;
 - iii. Legal description;
 - iv. Town Engineer's (or designee) approval;
 - v. Southeastern Utah Health District Sanitation approval;
 - vi. Castle Valley Special Service District's certificate of approval, the culinary water authority;
 - vii. Planning Commission acceptance;
 - viii. Town Council's approval as to form; and a

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- ix. County Recorder's certificate.
 - o. The name and address of the applicant, engineer, or surveyor for the proposed subdivision and owners of the land to be subdivided.
- 8) **APPROVAL OF FINAL SUBDIVISION PLAT.** Upon a determination that the proposed plat is consistent with the General Plan and upon receipt of the owners' tax clearance, and written approval from the culinary water authority and irrigation authority, the Town Council may approve a final subdivision plat as provided above. At this time the developer shall provide one (1) Mylar copy of the plat with all the appropriate signatures, that will be considered the final plat for the subdivision.
- 9) **IMPROVEMENTS.** Subdivision improvements must be completed within one (1) year of recordation of the final subdivision plat, unless such time is extended by the Cleveland Town Council. Development of an approved Major Subdivision may be carried out in progressive stages, in which event, each stage shall be planned and implemented in full compliance with the requirements and intent of this Ordinance at the completion of each stage. Improvement requirements need not be installed beyond the approved boundary of the stage to be developed. The initial stage of a Major Subdivision being developed in stages shall not cover less than one (1) acre.
- 10) **PUBLIC IMPROVEMENTS SECURITY.** A security arrangement shall be one of the following types as dictated by the Town:
 - (a) A bond with a surety company licensed to do business in the State of Utah; or
 - (b) An irrevocable letter of credit with a federally insured financial institution; or
 - (c) A cashier's check made payable only to the Town; or
 - (d) A trust or escrow account with a federally insured financial institution designating the Town as beneficiary.

Any interest accruing on escrowed funds shall, unless expended for completion of site improvements required, inure to the benefit of the developer and not to the Town. The Town shall not be required to pay interest to the developer on any non-interest bearing escrow account established for this purpose.

- 11) **INSPECTIONS.** The Planning Commission Chairman or his/her designee shall inspect the subdivision development during construction through its completion.

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12) OWNERS DUTY TO RECORD PLAT. The owner(s) of an acknowledged, certified and approved plat shall record the plat in the County Recorder's office. An applicant's failure to record a final plat within one year of Town Council approval shall render the plat null and void. In such case, the applicant must commence the subdivision process anew.

2-10.6 CONDOMINIUMS. Each application for condominium shall comply with the provisions of the Condominium Ownership Act as set forth in Section 57-8-1, et. seq., Utah Code annotated, 1953 as amended.

2-10.7 LOT LINE ADJUSTMENT. Applicants, as the owners of record of adjacent parcels that are described by either a metes and bounds description or on a recorded plat, may exchange title to portions of the parcels.

- 1) The Planning Commission may approve an exchange of title if the following conditions are met:
 - a. No new dwelling lot or housing unit will result from the exchange of title;
 - b. The adjustment does not result in violations of applicable zoning requirements.
- 2) If an exchange of title is approved, a notice of approval shall be recorded in the office of the County Recorder by the Town Recorder. This notice must:
 - a. Be executed by each owner included in the exchange and the Planning Commission;
 - b. Contain an acknowledgment for each party executing the notice;
 - c. Recite the descriptions of both the original parcels and the parcels created by the exchange of title.
- 3) A notice of approval does not act as a conveyance of title to real property and is not required for the recording of a document purporting to convey title to real property.

2-10.8 VACATING OR AMENDMENT OF A SUBDIVISION PLAT. Any fee owner, as shown on the last county assessment rolls, of land within the subdivision that has been laid out and platted as provided in this part may, in

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writing, petition the legislative body to have the plat, any portion of it, or any street or lot contained in it, vacated, altered, or amended as provided in this section.

- a. If a petition is filed, the Town Council shall hold the public hearing within 45 days after the petition is filed (c) if:
 - i. any owner within the plat notifies the Town of the owner's objection in writing within ten (10) days of mailed notification; or
 - ii. a public hearing is required because all of the owners in the subdivision have not signed the revised plat.
- b. Each petition to vacate, alter, or amend an entire plat, a portion of a plat, or a street or lot contained in a plat shall include:
 - i. the name and address of all owners of record of the land contained in the entire plat;
 - ii. the signature of each of these owners who consents to the petition.
- c. The public hearing requirement of subsection (a) above does not apply and the Town Council may consider at a public meeting an owner's petition to alter a subdivision plat if:
 - i. The petition seeks to join two or more of the owner's contiguous, residential lot; and
 - ii. notice has been given to adjacent property owners as detailed below.
- d. The owners of record of adjacent parcels that are described by either metes and bounds description or a recorded plat may exchange title to portions of those parcels if the exchange of title is approved by the Town Council if:
 - i. the exchange of title will not result in a violation of any Cleveland Town land use ordinance.

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- ii. If an exchange of title is approved, then a notice of approval shall be recorded in the office of the county recorder, which:
 - A. is executed by each owner included in the exchange and by the Town Council;
 - B. contains an acknowledgment for each party executing the notice in accordance with the provisions of Title 57, Chapter 2a, Recognition of Acknowledgments Act of the Utah State Code; and
 - C. recites the descriptions of both the original parcels created by the exchange of title; and
 - D. is a conveyance of title reflecting the approved change shall be recorded in the office of the county recorder.
- e. The name of a recorded subdivision may be changed by recording an amended plat making the change, as provided in this section and subject to subsection (e)(iii) below.
 - i. The surveyor preparing the amended plat shall certify that they hold a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act of the Utah State Code.
 - ii. The surveyor has completed a survey of the property described on the plat in accordance with Section 17-23-17 of the Utah State Code and has verified all measurements and has placed all monuments as represented on the plat.
 - iii. An owner of land may not submit for recording an amended plat that gives the subdivision described in the amended plat the same name as a subdivision in a plat already recorded in the county recorder's office.

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- f. Except as provided in subsection (e) above the recording of a declaration or other document that purports to change the name of a recorded plat is voidable.

1) NOTICE OF HEARING FOR PLAT CHANGE.

- o The Town Council shall give notice of the proposed plat change by mailing the notice to each owner of property located within 300 feet of the property that is the subject of the proposed plat change, addressed to the owner's mailing address appearing on the rolls of the Emery County Assessor. Notice shall be at least ten (10) calendar days before the meeting or hearing.
- o The Town Council shall ensure that the notice includes:
 - i. a statement that anyone objecting to the proposed plat change must file a written objection to the change within ten (10) days of the date of the notice;
 - ii. a statement that if no written objections are received by the Cleveland Town Council within the time limit, no public hearing will be held; and
 - iii. the date, place and time when a hearing will be held, if one is required, to consider a vacation, alteration, or amendment without a petition when written objections are received or to consider any petition that does not include the consent of all land owners as required by Subsection 1) above.
- o If the proposed change involves the vacation, alteration, or amendment of a street, the Cleveland Town Council shall give notice of the date, place, and time of the hearing by:
 - i. mailing notice as required in Subsection 2) a. above; and
 - ii. publishing the notice once a week for four consecutive weeks before the hearing in a newspaper of general circulation in the Cleveland Town area.

2) GROUNDS FOR VACATING OR CHANGING A PLAT. Within thirty (30) days after the public hearing, the Town Council shall consider the petition.

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- a. The Town Council may approve a petition to vacate or change a plat if it finds:
 - i. Neither the public nor any person will be materially injured by the proposed vacation, alteration or amendment; and
 - ii. There is good cause for the vacation, alteration or amendment.
- b. The Town Council, by ordinance, may vacate, alter, or amend the plat, any portion of the plat, or any street or lot;
- c. The Town Council may approve the vacation, alteration, or amendment by ordinance, amended plat, administrative order, or deed in conformance with and verifying approval by the Town Council;
- d. The Town Council shall ensure that the vacation, alteration, or amendment is recorded in the office of the Emery County Recorder;
- e. An aggrieved party may appeal the Town Council's decision to the 7th District Court in and for Emery County, Utah.

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Section 2-11: General Design Standards For Subdivisions

2-11.1 GOVERNING PROVISIONS

2-11.2 LOT STANDARDS

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2-11.26 RELEASE OF FUNDS

2-11.27 MODIFICATION OF PLANS

2-11.28 PHASED PROJECTS

2-11.1 GOVERNING PROVISIONS

- 1) The regulations hereinafter set forth in this chapter qualify or supplement, as the case may be, the zone regulations appearing elsewhere in this Title. The current edition of the American Public Works Association (APWA) Manual of Standard Specifications will also govern construction of infrastructure in Cleveland Town.

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2-11.2 LOT STANDARDS

- 1) The minimum area and dimensions of all lots shall conform to the requirements of the zone district in which the lot is located.
- 2) All lots or parcels created by a subdivision shall have direct access with frontage on a dedicated street improved to standards hereinafter required. Private streets shall be permitted only as recommended by the Planning Commission. Land designated as public right-of-way shall be separate and distinct from lots adjoining such right-of-way and shall not be included in the area of such lots,
- 3) All subdivisions shall result in the creation of lots that are developable and capable of being built upon. A subdivision shall not create lots and no building permit shall be issued for any lots that would make building or access impractical due to size, shape, steepness of terrain, location of watercourses, problems of sewerage or driveway grades, or other physical conditions, except where such lots are suitable and dedicated for a common open space, private utility or public purpose as determined by the Planning Commission.
- 4) The side lines of all lots, so far as possible, shall be at right angles to each street on which the lot faces, or approximately radial to the center of curvatures. Exceptions may be made to this requirement where considerations for solar orientation are involved. Corner lots for residential use shall be planned wider than interior lots in order to permit conformance with the required front setback requirements of both streets.
- 5) A Town boundary line shall not divide a lot. Each such boundary line shall be made on a lot line.
- 6) Lot numbers shall begin with the number “1” and shall continue consecutively through the subdivision with no omissions or duplications; block designations shall be optional.
- 7) Except as specifically authorized by this chapter, not more than one dwelling unit shall occupy any one lot.
- 8) No area needed to meet the minimum width, yard area, parking or other requirements of this chapter for a lot or building may be sold or leased away from such lot or building for the purpose of installing any kind of structure.
- 9) No portion of a lot may be cut off from another portion of a lot that has been created through a subdivision action.

2-11.4 CONSTRUCTION ON SLOPES EXCEEDING 25%

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- 1) Lots or buildings proposed on slopes exceeding 25% warrant especially close review to assure that all grading, retaining wall, cut and fill, road and driveway grade standards will be met.

2-11.5 LANDSCAPING

- 1) The design of developments and placement of buildings should preserve the natural terrain, drainage, existing topsoil, tree groupings, large individual trees and large rocks.
- 2) Natural informal landscape design should be used in Cleveland Town, rather than formal, geometric design.
- 3) Different types of adjacent uses both within and between developments should be buffered (separated or screened), by extensive tree planting.
- 4) Drought resistant plants and landscapes are encouraged.

2-11.6 BUILDINGS

- 1) **Fire Standpipes.** Standpipes complying with IBC standards may be required for all commercial and multi-residential buildings, regardless of the number of stories if so designated by the Fire Department.
- 2) **Fire Hydrants.** Fire hydrants shall be installed in accordance with recommendations from the culinary water authority.
- 3) **Provisions for Handicapped.** Provisions for physically handicapped persons shall be provided in all new buildings as required by the Americans with Disabilities Act (ADA).
- 4) **Construction Debris Removal.** Any building construction on sites shall provide debris removal sufficient to facilitate the regular clean up and removal of construction debris from the site. Each site shall be cleaned and all construction debris removed on a weekly basis. Failure to comply with this ordinance, by allowing debris to accumulate on the premises, may result in the suspension of building permits, fines or such other appropriate penalties as the Town Council shall direct.

2-11.7 ROADS

A. Road Layout and Geometry. The design, arrangement and construction of all roads, public and private, shall be in conformance with the road standards, the provision of this chapter, and Town Design Guidelines as adopted.

- 1) The arrangement of roads shall provide for the continuation of major roads between adjacent properties when the continuation is necessary for the convenient movement of traffic, emergency or maintenance vehicles,

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- or the efficient provision of utilities.
- 2) Proposed streets shall be continuous and in alignment with existing planned or platted streets with which they are to connect.
 - 3) Roads shall be designed to provide emergency access and egress for residents, occupants and emergency equipment providing width, curve radii and strength for emergency and maintenance vehicles used by or available to the Town.
 - 4) Where the potential traffic impacts on the existing street systems are considered to be great, or in the case of unique circumstances concerning topography or neat layout, or at the request of the Town, the sub-divider may be required to prepare a detailed engineering traffic study of the road system.
 - 5) Proposed streets shall intersect one another as nearly at right angles as topography and other limiting factors of good design permit. “T” intersections rather than “cross” intersections shall be used wherever possible for local streets.
 - 6) Where a road does not extend to the boundary of the development and its continuation is not required, its terminus should be no closer than fifty (50) feet from the boundary.

2-11.8 ROAD GRADES

- 1) Intersections and switchbacks shall not exceed a 10% grade.
- 2) No public or private roadway or street shall exceed a 10% grade, except that grades up to 12% for public or private roadways and streets may be allowed by the Planning Commission upon review and finding that all of the following conditions are met:
 - a. No more than 10 residential units will be served by the proposed road that will exceed 10% grade or the lots to be served have a separate, emergency access that does not exceed a 10% grade.
 - b. For roadways of 10% or greater grade, the applicant shall stake the centerline and both edges in the field for inspection by the Town’s designee to ensure full compliance with this section.
 - c. Roadways and streets exceeding a 12% grade shall not be permitted

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2-11.9 PRIVATE ROAD MAINTENANCE

- 1) A means of perpetual maintenance must be demonstrated to and approved by the Planning Commission before a private road may be approved.

2-11.10 STREET NAMES

- 1) Each street that is a continuation of, or an approximate continuation of, any existing dedicated street shall be given the name of such existing street. When any street forms a portion of a proposed street it shall be surveyed, opened, widened or improved and given the same name.
- 2) The names of newly created streets shall not duplicate or approximately duplicate the names of any existing streets in the Town or in adjacent areas of the County.
- 3) Any named street shall also have the proper compass direction coordinate as approved by the Town.
- 4) Subdividers are encouraged to conduct an investigation of local history regarding the names and references to geological and historical features located within or in close proximity to the proposed subdivision and whenever possible incorporate the historical names and references into the names and designations of streets.

2-11.11 DRIVEWAYS

- 1) No driveway shall exceed two hundred (200') feet in length and/or 12% grade.
- 2) Driveways serving single residential dwellings shall be a minimum of twelve (12) feet wide. Driveways serving two or more residential dwellings shall be a minimum of twenty four (24) feet wide.

2-11.12 CUTS, FILLS AND RETAINING WALLS

- 1) Because of the dramatic visual impact of cuts, fills and retaining walls in a desert environment such as Cleveland Town and because of public safety factors that may arise with significant cuts and fills in unsuitable soils, design plans for cuts, fills and retaining walls shall conform to the following criteria and other applicable sections of this chapter.
- 2) No cuts or fills will be allowed on slopes with grades exceeding 40%.
- 3) Un-retained cuts that exceed a two (2) feet horizontal to a one (1) foot vertical slope shall not exceed three (3) feet in height.

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- 4) Un-retained fills may not exceed twelve (12) feet in height pursuant to **Section 2-11.13 Measuring Cut and Fill Heights** below.
- 5) No single retaining wall or retaining system may exceed twelve (12) feet in height and/or forty (40) feet in length; retaining systems less than twelve (12) feet in height may exceed forty (40) feet in length.
- 6) Up to three terraced cuts may be created under a terraced cuts retaining system, so long as each wall is separated by a minimum six (6) foot setback (measured from face to face) for visual relief and re-vegetation. The total maximum height for cuts retained under a terraced retaining system shall not exceed eighteen (18) feet.

2-11.13 MEASURING CUT AND FILL HEIGHTS

- 1) Cuts and/or fills shall be measured vertically from the natural grade at the lowest point of disturbance to the natural grade at the highest point of disturbance.

2-11.14 MAXIMUM SLOPE GRADES

- 1) Un-retained cut end fill slopes shall be no steeper than 1 ½ feet horizontal to 1 foot vertical, except that cuts in bedrock materials, the stability of which is verified by a geologist and/or soils engineer with demonstrated expertise, may be steeper if approved by the Town Council with specific findings.

2-11.15 RETAINING WALLS

- 1) All retaining walls and/or approved retaining systems shall be constructed of decorative materials (i.e.: textured surfaces, colored or tinted materials) and should be designed to blend into and enhance the natural desert environment and must be approved by the Building Inspector before excavation permits shall be granted.

2-11.16 ENGINEERING/GEOLOGIC ANALYSIS

- 1) An engineering geological report shall be prepared by a registered geologist or engineer at the preliminary plan stage of the subdivision to demonstrate that the hillside above and proposed cut will remain stable after the proposed cut/fill and retaining system if any, has been completed.

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2-11.17 RE-VEGETATION

- 1) All un-retained cut and fill slopes must be naturalized and re-vegetated within one (1) year after a certificate of occupancy is issued.
- 2) Un-retained cuts and fills should be naturalized by rounding edges, placing boulders in natural fashion and planting native plants, including trees, brush, and ground cover, to match surrounding areas. A landscape/re-vegetation plan shall be submitted to the Planning Commission for review with the cut/fill design plans.

2-11.18 BUILDING SETBACKS FROM WATER WAYS AND FLOOD HAZARD AREAS

No specific setbacks from waterways and flood hazard areas shall be required. However it is advised that owners and developers of land consider and implement the following considerations whenever possible:

- 1) Buildings or structures shall have low flood damage potential. The buildings or structures shall be constructed and placed on the building site so as to offer the minimum obstruction to the flood or floodwaters.
- 2) All buildings and structures shall be constructed with flood resistant materials and be constructed using methods and practices that minimize flood damage.
- 4) So far as practicable, buildings or structures shall be placed approximately on the same flood flow lines as those of adjoining structures.
- 5) Location of any structural storage facilities for chemicals, explosives, buoyant materials, flammable liquids or other toxic materials which could be hazardous to public health, safety and welfare shall be accomplished in a manner which will assure that the facilities are situated above the base flood elevation, or are adequately flood-proofed to prevent flotation of storage containers which could result in the escape of toxic or nuisance materials into flood water.
- 6) All new structures and all additions to existing structures shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- 7) Development permits for the proposed construction or improvements shall be obtained from federal, state or local governmental agencies from which prior approval is required.

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2-11.19 UTILITIES

A. Construction.

All utility connections and lines shall be installed underground. Utility service available in other parts of the Town including electricity, telephone, and natural gas shall be developed in provided easements and shall extend to the property line of every lot within the subdivision. Before any installations are covered, material and service must be inspected and approved by the Town's Building Inspector. During the construction period, temporary power poles and lines shall be allowed within the boundaries of the construction project; however, such poles and lines must be taken down within thirty (30) days after the final certificate of occupancy is granted.

B. Easements.

All utilities shall be placed within public road right-of-ways or specific right-of-ways or easements free of legal encumbrances. Multiple use on given easements is encouraged. The final recorded plat shall note all easements.

C. Water.

As a condition for single home or subdivision approval, the builder or subdivider shall install or cause to be installed the following improvements:

1. A water main in front of each parcel in size, location and with appropriate valves etc., as approved by the Town after review and recommendation of the Planning Commission;
2. Fire hydrants at intervals of not greater than 500 feet with each parcel not more than 250 feet from the nearest hydrant. In the event it is necessary to extend a water main so that the same fronts each parcel or to access fire hydrants within 250 feet of each parcel, then the cost of the water mains and hydrants shall be borne by the landowner who effectuates the subdivision of his/her property.
3. All trenches and disturbed areas under streets or proposed streets must be filled and compacted to the standards employed by the Utah Department of Transportation.
4. As a condition of subdivision approval under this subsection, the Sub-divider shall be obliged to dedicate or furnish to Castle Valley Special Service District a number of water rights sufficient in flow and transferability to off-set the increased demand on the Town's water supply arising from the

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subdivision.

- a. If the area to be subdivided is currently served by an irrigation system, then the Sub-divider shall be obliged to transfer or dedicate to the Town a water right sufficient only to meet the in-house domestic needs, if the Sub-divider verifies, in writing, that the irrigation water, or portion thereof, will continue to be applied to the property outside the dwelling and may not be transferred therefrom.
- b. In the event the subdivided land, or any portion thereof, is not served by an existing irrigation system, then the Sub-divider shall be obliged to furnish or dedicate to the Town a water supply to furnish water for in-house domestic use, and also for outside use for lawns gardens, etc.
- c. Unless specific approval is given by the Town after review and recommendation of the Planning Commission, the Town's culinary water system shall not be employed to irrigate or otherwise maintain lawn, gardens or vegetation on an amount of land in excess of one-quarter acre for each subdivided lot without regard to the size of such lot.
- d. The requirement to furnish water may be satisfied by the transfer to the Town of well rights, spring rights or stock in an approved irrigation company, directly useable, or transferable into an existing or new well or otherwise capable of increasing the Town's ability to furnish water to an expanded number of homes and residents.
- e. In those instances where irrigation water will continue to serve the area outside a dwelling, the Town will accept a partial transfer of the water rights attributable to that land in order that the Town receive only that which is required to address the in-house domestic use.
- f. Upon finding that transfer of water right is not feasible, the Town by approve a cash payment in an amount consistent with the value of the required water right. This provision shall not apply where any water is proposed to be transferred from the ground to be used elsewhere: but is designed to recognize limitations on splitting irrigation stock below a certain fraction, and

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also the possibility of the inclusion of land not historically irrigated.

- g. It shall be the responsibility of the Sub-divider to supply and maintain a meter and valve for each lot with only one connection off the main irrigation line per lot. The Sub-divider shall be billed for the season's meter reading. No structure shall be within 15 feet of any main culinary or irrigation lines.

2-11.20 COMPLETION OF ON AND OFF-SITE IMPROVEMENTS PRIOR TO THE APPROVAL OF PLATS OR ISSUANCE OF CERTIFICATES OF OCCUPANCY

A. Policy

In order to protect buyers of condominiums, subdivision projects, and other property in the Town of Cleveland against purchasing property on which the site improvement work is incomplete and which may not be completed, and to protect the public at large from dangerous and undesirable conditions that result from unfinished site improvements such as erosion, flooding, and blowing dust, it is the policy of the Town of Cleveland that no plat will be approved (when a plat is required) and that no certificate of occupancy will be issued (when plats are not required) on any building project within the Town limits unless and until the site improvement work is completed or the developer of the property has provided adequate security to guarantee timely completion of the improvements.

B. Detailed Site Plans

A detailed site plan showing the location and nature of drainage work, grade changes, retaining walls, and landscaping together with any trails, paths, or walkways shall be submitted to the planning commission for approval prior to issuance of an occupancy permit by the building inspector. Site improvements shall be completed pursuant to this chapter and as shown in the detailed site plan.

C. Construction According To Approved Plans

No plat will be approved and no certificate of occupancy will be issued unless that project and all required site improvements have been constructed in accordance with the plans approved by the planning commission and on which the building permit is issued, except as specified in section **2-11-21 Security for Completion** below.

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2-11.21 SECURITY FOR COMPLETION

- 1) In the event that buildings on the property are completed before other required on-site improvements are completed, and the site improvements cannot be completed simultaneously with the completion of the building due to weather or other conditions beyond the control of the developer (excluding financial inability to perform); or as it relates to subdivisions, in order to record a final plat prior to completion of off-site improvements, the Town may grant final plat approval or issue the certificate of occupancy for all or part of the project prior to the completion of site improvements provided that all of the following conditions are met:
 - a. The building or buildings, or portions thereof, on the property to be platted or occupied have been constructed in accordance with the approved plans for those buildings, and are in full compliance with applicable codes, and are completed to the extent that only exterior site improvement work remains unfinished and the building inspector determines that occupancy of the buildings, or portions thereof, prior to completion of required on- and off-site improvements, is safe, and that access for emergency vehicles is adequate with the site improvements unfinished.
 - b. In regard to subdivisions, the building inspector approves all final construction plans, a development agreement has been approved by the Town Attorney and executed by the owner/developer and; The developer posts adequate security for the benefit of full compliance with the approved plans within two years from the date of plat approval (if required) or one year from the date of issuance of the certificate of occupancy, whichever occurs first.

2-11.22 AMOUNT OF SECURITY

- 1) The amount of the security to be posted by the developer shall be determined by the Town Council and shall be equal to one hundred (100%) of the amount reasonably estimated by the Town as being necessary to complete all remaining on- and off-site improvements as shown on the approved plans. In the event that the developer disputes the cost estimate of the Town the developer may present lower construction costs supported by binding written contracts between the developer and licensed contractors or subcontractors qualified to perform the required work at a stated, fixed price.

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- 2) A full performance bond, insuring performance by the subcontractor or contractor, must accompany these contracts. Bid proposals are not satisfactory for this purpose. If the contracts submitted are acceptable in form, the amount of security required shall be one hundred percent (100%) of the total contract price of all such contracts submitted, plus the estimated reasonable cost of performing work not covered by the contracts, if any. Specifications in such contract shall be sufficiently clear to identify the work called for under the contract. The amount of security required for single-family homes shall be the reasonable estimated cost of construction of any retainage and drainage and the estimated cost of landscaping to the extent necessary to hold soil in place.

2-11.23 TERM OF SECURITY

- 1) All public improvements required under this Chapter shall be installed by a contractor or subcontractor licensed by the State of Utah. Such license is for the work to be performed, and the contractor and subcontractors must provide copies of their current licenses.

2-11.24 FORM OF SECURITY

- 1) Such security arrangement shall be one of the following types:
 - a. A bond with a surety company licensed to do business in the State of Utah.
 - b. An irrevocable letter of credit with a federally insured financial institution.
 - c. A cashier's check made payable only to the Town.
 - d. A trust or escrow account with a federally insured financial institution designated the Town as beneficiary.

2-11.25 PAYMENT OF INTEREST

- 1) Any interest accruing on escrow funds shall, unless expended for completion of site improvements required, inure to the benefit of the developer and not the Town. The Town shall not be required to pay interest to the developer on any escrow for this purpose.

2-11.26 RELEASE OF FUNDS

- 1) The Town of Cleveland shall relinquish funds held or security posted for the purpose of paying for site improvement work performed according to the plans as that work is completed. The Town shall release funds

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equal to the actual cost of performing the work as the work progresses minus 10% percent. Upon satisfactory completion of all required site improvement work as determined by the Planning Commission Chairman or his/her Planning Commission member designee, all funds shall be immediately released to the developer.

2-11.27 MODIFICATION OF PLANS

- 1) A developer may request modifications to plans covering site improvements work by submitting revised plans to the Town for review and final action. If modification of the plans increases the cost of required site improvements, the developer shall be obligated to cover the increased costs and must provide additional security.

2-11.28 PHASED PROJECTS

- 1) Site improvements applicable to each phase of a phased project or development shall be completed or security for completion provided as each phase is constructed and either platted or occupied. Site improvements or other phases of the project shall be completed or security offered as those phases are completed.

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- 2-12.0902 MOBILE HOME PARKS**
- 2-12.0903 APPROVAL OF PLANS AND DOCUMENTS NECESSARY**
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- 2-12.0925 FINAL SITE PLAN**
- 2-12.0926 STAGED CONSTRUCTION PERMITTED**
- 2-12.0927 GUARANTEE OF PERFORMANCE**
- 2-12.0928 CONTINUING OBLIGATION**
- 2-12.0929 LICENSE REQUIRED**

2-12.0901 INTENT

The intent of this title is to (1) provide for the construction of certain large scale developments which will permit increased flexibility in land development and efficiency in the use of our land resources and (2) establish minimum standards and procedures for the construction and maintenance of such developments to the end that the quality of the living environment will be maintained.

The following large scale developments shall be permitted upon compliance with the regulations set forth herein but only in the zones in which such large scale developments are permitted.

- A. Mobile Home Parks
- B. Travel Trailer Parks

2-12.0902 MOBILE HOME PARKS

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Mobile home parks shall be permitted only in the zones in which mobile home parks are specifically permitted. All such uses shall be subject to the restrictions and conditions contained within the zone requirements and also as hereinafter set forth.

2-12.0903 APPROVAL OF PLANS AND DOCUMENTS NECESSARY

Any person wishing to construct a mobile home park shall obtain, from the planning and zoning administrator, information pertaining to the town's plan of land use, streets, public facilities, and other requirements affecting the land within the development. Before a permit can be issued for any construction connected with a mobile home park, the preliminary plans, required documents pertaining to the development, and the final plan shall have been approved as hereinafter set forth.

2-12.0904 PRELIMINARY PLANS AND DOCUMENTS

The preliminary plan and documents shall be prepared and submitted as follows:

A. Plan Requirements

Three (3) copies of the preliminary plan must be submitted to the planning and zoning administrator at least two (2) weeks prior to the meeting of the planning and zoning commission at which the plan will be considered. The preliminary plan shall be drawn to a scale not smaller than one inch equals one hundred feet or as recommended by the planning and zoning administrator and shall show the following information:

1. The topography represented by contours shown at no greater intervals than (2) feet when required by the planning commission.
2. The proposed street and mobile home space layout.
3. Proposed reservations for parks, playgrounds, and open spaces.
4. Size and character of recreation buildings and other structures associated with land and facilities to be used by the mobile home park occupants.
5. Layout of typical mobile home spaces.
6. Tabulations showing:
 - (a) area of land within the mobile home park

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- (b) number of mobile homes permitted
- (c) number of mobile homes provided for in the mobile home park
- (d) percent of area to be devoted to parks and playgrounds
- (e) number of off-street parking spaces
- 7. Proposed location of off-street parking spaces.
- 8. Proposed landscape planting plan, including type and location of plant materials.
- 9. Location of existing and proposed utility lines and easements, water and sewer lines, fire hydrants, storm drains and facilities, curbs, and other improvements.
- 10. Draft of proposed documents including:
- 11. Typical street cross-sections.
- 12. Any other data that the planning commission may require.

B. Standards and Requirements

The development of a mobile home park shall conform to the following standards and requirements:

- 1. The area shall be in one ownership and shall remain in one ownership and the same shall not be subdivided.
- 2. The final plan must be prepared by an engineer, architect, or landscape architect licensed to practice in the State of Utah.
- 3. The minimum initial site size for a mobile home park shall be two (2) acres.
- 4. The mobile homes may be clustered and individual mobile home site sizes may be reduced below that required for single family dwellings within the zone in which the development is located provided that the gross density of mobile home units within the development does not exceed eight (8) units per acre and that all lots or spaces are served by an approved central culinary water and sewage disposal system.
- 5. The land area not contained in individual lots, roads, or parking shall be set aside and developed as parks, playgrounds

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and service areas for the common use and enjoyment of the occupants of the mobile home park.

6. No less than ten percent of the gross area of the mobile home park shall be set aside for common use. The land covered by vehicular roadways, sidewalks, off-street parking and landscaped areas surrounding mobile home spaces which are pertinent to each mobile home and area devoted to service facilities shall not be construed as being part of the area required for parks and playgrounds.

7. No mobile home or add-on shall be located closer than fifteen feet from the nearest portion of any other mobile home or add-on provided that when a carport is added to a mobile home, side-yards on the carport side shall be at least six (6) feet from the side lot line, or not less than twelve (12) feet between structures, whichever is greater. All mobile homes and add-ons shall be set back at least five (5) feet from all roadways.

8. All area not covered by mobile homes, buildings, parking space, or driveways shall be planted in lawn, trees, and shrubs or otherwise landscaped within two years from date of final approval of the park.

9. All off-street parking space and driveways shall be hard surfaced within two years from date of approval of the park.

10. A strip of land at least eight (8) feet wide surrounding the mobile home park shall be left unoccupied by mobile homes and shall be planted and maintained in lawn, shrubs, and trees designed to afford privacy to the development.

11. All storage and solid waste receptacles outside of the confines of a mobile home must be housed in a closed structure compatible in design and construction to the mobile homes and to any service buildings within the mobile home and to any service buildings within the mobile home park; all patios, garages, carports, and other add-ons must also be compatible to design and construction with the mobile home

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and with the service buildings as approved by the planning commission.

12. Occupancy shall be by written lease which lease shall be made available to the officials of the town upon demand.

13. Roadways shall be of adequate width to accommodate anticipated traffic as follows:

- (a) For one-way with no parking; twelve (12) feet in width, plus extra width as necessary for maneuvering mobile homes.
- (b) For two-way with no parking; twenty four (24) feet in width.
- (c) For entrance streets: minimum of thirty-six (36) feet in width. All streets shall be bordered by rolled curb or equivalent and shall be hard-surfaced.

14. There shall be no more than two (2) entrances from the mobile home park into any one street, which entrances shall be no closer than twenty-five (25) feet from each other, nor closer than seventy (70) feet to the corner of an intersection.

15. Access shall be provided to each mobile home stand by means of an access way reserved for maneuvering mobile homes into position and shall be kept free from trees and other immovable obstructions. Paving the access way shall not be required. Use of planks, steel mats, or other means during placement of a mobile home shall be allowed so long as the same are removed immediately after placement of the mobile home.

16. Off-street parking shall be provided at the rate of two (2) parking spaces per mobile home space contained within the mobile home park. In no case shall the parking space be located greater than one hundred (100) feet away from the mobile home space it is designed to serve, except that one-fourth (1/4) of the required parking spaces may be located not more than three hundred (300) feet away from the mobile home spaces it is designed to serve.

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17. In addition to meeting the above requirements and conforming to the other laws of the county, all mobile home parks shall also conform to requirements set forth in the CODE OF CAMP TRAILER COURT, HOTEL, MOTEL, AND RESORT SANITATION REGULATIONS adopted by the Utah State Board of Health, and to the town's FIRE PREVENTION CODE, which codes are hereby adopted by reference, three (3) copies of which are filed with the office of the town clerk for use of the public and all restrictions, regulations, and notations contained therein shall be made a part of this Ordinance as fully set forth herein. In event of any conflict between said regulation or codes and this chapter, this chapter shall take precedence.

18. Mobile home parks containing not less than twenty-five (25) mobile homes may include a launderette for convenience of the occupants of the park but not for the general public.

19. All mobile homes shall be located at least thirty (30) feet back from any public street and the resulting yards must be landscaped except for driveways.

20. Yard Lighting. A minimum of two-tenths (0.2) foot candles of light shall be required for protective yard lighting the full length of all driveways and walkways.

21. An area of at least 100 square feet for each mobile home space contained within the park shall be provided for the storage of boats, trailers, and campers. Said storage space shall be enclosed with a sight-obscuring fence of not less than six (6) feet nor more than eight (8) feet in height.

C. Documents

Documents shall also be submitted with the preliminary plan consisting of:

1. A declaration of management policies, covenants, and restrictions setting forth the responsibilities and

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duties of the renters or occupants within the mobile home park.

2. An agreement between the developers and the town stating among other things:
 - a. That in the event of failure or neglect on the part of the owners, successors, or assigns to maintain the common areas, landscaping and other improvements in good condition, the town may perform the necessary work and for the purpose may enter in upon the land and do said work and charge the cost thereof, including reasonable attorney's fees, against the owners or their successors or assigns.
 - b. That the developer will construct the project in accordance with approved plans.
 - c. That the contract shall be binding upon the heirs, assigns, receivers, successors of the project for the life of the buildings or the project.
 - d. Any other conditions that the planning commission deems to be reasonably necessary to carry out the intent of this ordinance.

2-12.0905 REVIEW AND APPROVALS

The planning commission shall review the plan and proposed documents to determine compliance with all portions of the town's master plan. In considering said plan, the planning commission, among other things, shall make sure that such developments shall constitute a residential environment of sustained desirability and stability and that it will not adversely affect amenities in the surrounding area. The planning commission may require changes to be made in the plan. They may also require additional yards or buffers or other improvements to be installed along with greater amounts of landscaping or parking spaces. Said changes may be imposed as conditions of approval where it is determined by the planning commission that such changes are necessary to insure that the development will mix harmoniously with adjoining or nearby uses.

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An application for approval of a mobile home park shall be granted or denied only after a public hearing by the planning commission. Notice of the hearing shall be given in a newspaper of general circulation at least ten (10) days prior to said hearing. If approved or denied by the planning commission, the application, with the planning commission's recommendations shall be submitted to the Town Council for its approval or denial. An application denied by the Town Council may be appealed in writing to the Appeal Authority within thirty (30) days after the final decision by the Town Council. Approval of the preliminary plan shall be valid for a period of one (1) year.

2-12.0906 FINAL SITE PLAN

Upon approval of the preliminary plan by the Town Council the developer shall submit to the planning commission a final site plan of either the entire mobile home park or the first stage of such development that is to be constructed. Such plan shall be drawn to scale, and provide, in detail, the information required under this ordinance.

Copies of the final approval documents shall also be recorded in the office of the county recorder. No building permit shall be issued for said mobile home park until final plans have been approved by the Town Council and the required documents recorded in the office of the county recorder and also until the bond required under **02.0908** of this Ordinance has been properly posted.

2-12.0907 STAGE CONSTRUCTION PERMITTED

Development may be carried out in progressive stages in which event each stage shall be so planned that the requirements and intent of this Ordinance shall be fully complied with at the completion of each stage. No final plan for the initial stage shall cover less than two (2) acres.

2-12.0908 GUARANTEE OF PERFORMANCE

A. Type and Amount of Guarantee

In order to insure that the mobile home park will be constructed in an acceptable manner, developers shall post a bond, mortgage, or other assurance acceptable to the Town Council in an amount equal to the estimated cost of constructing all

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required landscaping, road improvements, pedestrian ways, curbs and gutters, hard-surfacing, water and sewer lines and other domestic sewage disposal facilities, and common facilities as shown on the final site plan.

B. Duration

The duration of the bond or other assurance shall be for two (2) years from the date of approval of the development by the Town Council. An extension of time may be granted by the Town Council upon application by the developer, provided such application is submitted at least sixty (60) days prior to the expiration of the bond, and provided the issuer of the bond is willing to extend the time of the assurance.

C. Default

In the event the developer defaults or fails or neglects to satisfactorily install the required improvements within two (2) years from the date of approval of the development by the Town Council, the council may declare the bond or other assurance forfeited and the town may install or cause the required improvements to be installed using the proceeds from the collection of the bond or other assurance to defray the expense thereof.

D. Final Disposition and Release

The developer shall be responsible for the quality of all materials and workmanship. At the completion of the work, or not less than ten (10) days prior to the release date of the bond or other assurance, the Town Council shall make an inspection of the improvements. If the conditions of said facilities are found to be satisfactory, the council shall release the bond or other assurance. If the condition of material or workmanship shows unusual depreciation or does not comply with the acceptable standards of durability, the Town Council may declare the developer in default.

2-12.0909 CONTINUING OBLIGATION

Any failure on the part of the developer or his assigns to maintain the mobile home park in accordance with the approved management policies, covenants, conditions, and restrictions and agreements shall

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be, and the same is hereby declared to be a public nuisance endangering the health, safety, and general welfare of the public and a detriment to the surrounding area and that in addition to any other remedy provided by law for the abatement or removal of such public nuisance, the Town may remove or abate the nuisance and charge the cost thereof, including reasonable attorney's fees to the owners as provided by Chapter 11, of Title 10, Utah Code Annotated, as amended.

2-12.0910 DEVELOPMENT IN PARKS

The parks and play areas shall be protected against building development by conveying to the Town an open space easement over such open areas, restricting the area against any future building or use, except as is consistent with that of providing landscaped open space for the aesthetic and recreational satisfaction of the residents. Buildings or uses for non-commercial, recreational, or cultural purposes, compatible with the open space objectives, may be permitted only with the express approval of the Town Council following approval of building, site, and operational plans by planning commission.

2-12.0911 LICENSE REQUIRED

Pre-requisite to the operation of any mobile home park shall be the obtaining of an annual license, which shall be issued only after inspection by the zoning administrator. It shall be unlawful to operate a mobile home park without first obtaining a license and said license shall be refused or revoked upon failure of the owner and/or operator to maintain the park in accordance with the standards and requirements as herein set forth.

2-12.0920 TRAVEL TRAILER COURTS

Travel trailer courts shall be permitted only in the zones in which travel trailer courts are specifically permitted. All such travel trailer courts shall be permitted subject to restrictions and conditions contained within the zone requirements and also as hereinafter set forth.

2-12.0921 INTENT

It is the intent of these travel trailer court provisions to provide safe, sanitary, and attractive facilities for the tourist to park a travel trailer

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or camper while visiting the area. It is also the intent of these provisions to prevent the use of a travel trailer court as a substandard mobile home park and to protect the integrity and characteristics of the zone or zones in which travel trailer courts are located.

2-12.0922 APPROVAL OF PLANS AND DOCUMENTS NECESSARY

Any person wishing to construct a travel trailer court shall obtain, from the planning and zoning administrator, information pertaining to the Town's plan of land use, streets, public facilities, and other requirements affecting the land within the development. Before a permit can be issued for any construction connected with a travel trailer court, the preliminary plans, required documents pertaining to the development, and the final plan shall have been approved as hereinafter set forth.

2-12.0923 PRELIMINARY PLAN AND DOCUMENTS

The preliminary plan and documents shall be prepared and submitted as follows:

A. Plan Requirements

Three (3) copies of the preliminary plan must be submitted to the planning and zoning administrator at least two (2) weeks prior to the meeting of the planning and zoning commission at which the plan will be considered. The preliminary plan shall be drawn to a scale not smaller than one inch equals one hundred (100) feet or as recommended by the planning and zoning administrator and shall show the following information:

1. Proposed road and trailer space layout.
2. Proposed reservation for parks, playgrounds, and other open space.
3. Proposed location for service facilities.
4. A generalized landscape plan.
5. Location of existing and proposed utility lines and easements, water and sewer lines, fire hydrants, storm drains and facilities, curbs and other improvements.
6. Any other data that the planning commission may require.
7. Draft copies of proposed documents including statements of management policies, covenants, and restrictions, and maintenance agreements.

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B. Standards and Requirements

1. Each travel trailer court shall be held in one ownership and shall contain at least one (1) acre of land.
2. All travel trailer courts shall abut upon a collector or arterial street, as set forth in the major street plan of the Town.
3. All travel trailers shall be set back at least twenty (20) feet from any public street.
4. The roadway system shall provide convenient circulation through the travel trailer court and provide access to each travel trailer space. No travel trailer space will be permitted direct access to a public street, road or highway other than by means of the travel trailer court roadway system. All entrances and exits from the travel trailer court shall be forward motion only. No exit or entrance from a travel trailer court shall be through a residential zone and no entrance or exit shall be located closer than fifty (50) feet to the intersection of two (2) streets.
5. All one-way roadways shall be at least twelve (12) feet in width and all two-way roadways at least twenty (20) feet in width and all roadways shall be hard-surfaced.
6. All areas within the court which are not hard-surfaced, including the twenty-foot (20) setback space, shall be landscaped and maintained with lawns, trees, and shrubs designed to provide privacy and noise containment and shall be equipped with adequate sprinkling devices as determined by the building inspector.
7. Each travel trailer space shall be at least twenty (20) feet in width and at least forty (40) feet in length.
8. All travel trailer spaces shall be served by an approved water system and sewage disposal system.

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9. No travel trailer space shall be rented for a period of more than thirty (30) days and no travel trailer shall be placed in a travel trailer court which exceeds eight (8) feet in width.

10. In addition to meeting the above requirements, all travel trailer courts shall conform to the requirements set forth in the CODE OF CAMP, TRAILER COURT, HOTEL, MOTEL AND RESORT SANITATION REQUIREMENTS.

C. Documents

Documents shall also be submitted with the preliminary plan consisting of:

3. A declaration of management policies, covenants, and restrictions setting forth the responsibilities and duties of the renters or occupants within the travel trailer park.
4. An agreement between the developers and the town stating among other things:
 - a. That in the event of failure or neglect on the part of the owners, successors, or assigns to maintain the common areas, landscaping and other improvements in good condition, the town may perform the necessary work and for the purpose may enter in upon the land and do said work and charge the cost thereof, including reasonable attorney's fees, against the owners or their successors or assigns.
 - b. That the developer will construct the project in accordance with approved plans.
 - c. That the contract shall be binding upon the heirs, assigns, receivers, successors of the project for the life of the buildings or the project.
 - d. Any other conditions that the planning commission deems to be reasonably necessary to carry out the intent of this ordinance.

2-12.0924 REVIEW AND APPROVALS

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The planning commission shall review the plan to determine its compliance with any portion of the master plan that shall have been adopted by the planning commission. In considering approval of the development, the planning commission, among other things, shall make sure that such developments shall mesh harmoniously with the surrounding area, that it will not produce a volume of traffic beyond the capacity of the surrounding street system, that requirements for utilities, off-street parking, traffic circulation and other public requirements will be adequately met and that the standards and intent of this section shall be adequately complied with.

The planning commission may require changes to be made in the plan. They may also require additional yards or buffers or other improvements to be installed along with greater amounts of landscaping or parking spaces. Said changes may be imposed as conditions of approval where it is determined by the planning commission that such changes are necessary to insure that the development will mix harmoniously with adjoining or nearby uses.

An application for approval of a travel trailer court shall be granted or denied only after a public hearing by the planning commission. Notice of the hearing shall be given in a newspaper of general circulation at least ten (10) days prior to said hearing. If approved or denied by the planning commission, the application, with the planning commission's recommendations shall be submitted to the Town Council for its approval or denial. An application denied by the Town Council may be appealed in writing to the Appeal Authority within thirty (30) days after the final decision by the Town Council. Approval of the preliminary plan shall be valid for a period of one (1) year.

2-12.0925 FINAL SITE PLAN

Upon approval of the preliminary plan by the Town Council the developer shall submit to the planning commission a final site plan of either the entire travel trailer court or the first stage of such development that is to be constructed. Such plan shall be drawn to scale, and provide, in detail, the information required under this ordinance.

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Copies of the final approval documents shall also be recorded in the office of the county recorder. No building permit shall be issued for said mobile home park until final plans have been approved by the Town Council and the required documents recorded in the office of the county recorder and also until the bond required under **02.0927** of this Ordinance has been properly posted.

2-12.0926 STAGED CONSTRUCTION PERMITTED

Development may be carried out in progressive stages in which event each stage shall be so planned that the requirements and intent of this Ordinance shall be fully complied with at the completion of each stage. No final plan for the initial stage shall cover less than one (1) acre.

2-12.0927 GUARANTEE OF PERFORMANCE

E. Type and Amount of Guarantee

In order to insure that the travel trailer court will be constructed in an acceptable manner, developers shall post a bond, mortgage, or other assurance acceptable to the Town Council in an amount equal to the estimated cost of constructing all required landscaping, road improvements, pedestrian ways, curbs and gutters, hard-surfacing, water and sewer lines and other domestic sewage disposal facilities, and common facilities as shown on the final site plan.

F. Duration

The duration of the bond or other assurance shall be for two (2) years from the date of approval of the development by the Town Council. An extension of time may be granted by the Town Council upon application by the developer, provided such application is submitted at least sixty (60) days prior to the expiration of the bond, and provided the issuer of the bond is willing to extend the time of the assurance.

G. Default

In the event the developer defaults or fails or neglects to satisfactorily install the required improvements within two (2) years from the date of approval of the development by the Town Council, the council may declare the bond or other assurance forfeited and the town may install or cause the

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required improvements to be installed using the proceeds from the collection of the bond or other assurance to defray the expense thereof.

H. Final Disposition and Release

The developer shall be responsible for the quality of all materials and workmanship. At the completion of the work, or not less than ten (10) days prior to the release date of the bond or other assurance, the Town Council shall make an inspection of the improvements. If the conditions of said facilities are found to be satisfactory, the council shall release the bond or other assurance. If the condition of material or workmanship shows unusual depreciation or does not comply with the acceptable standards of durability, the Town Council may declare the developer in default.

2-12.0928 CONTINUING OBLIGATION

Any failure on the part of the developer or his assigns to maintain the travel trailer court in accordance with the approved management policies, covenants, conditions, and restrictions and agreements shall be, and the same is hereby declared to be a public nuisance endangering the health, safety, and general welfare of the public and a detriment to the surrounding area and that in addition to any other remedy provided by law for the abatement or removal of such public nuisance, the Town may remove or abate the nuisance and charge the cost thereof, including reasonable attorney's fees to the owners as provided by Chapter 2, of Title 10, Utah Code Annotated, as amended.

2-12.0929 LICENSE REQUIRED

Pre-requisite to the operation of any travel trailer court shall be the obtaining of an annual license, which shall be issued only after inspection by the zoning administrator. It shall be unlawful to operate a mobile home park without first obtaining a license and said license shall be refused or revoked upon failure of the owner and/or operator to maintain the court in accordance with the standards and requirements as herein set forth.

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2-13-1 PURPOSE

The purpose of this chapter is to set forth a procedure for annexing to Cleveland Town territory, which lies outside its present boundaries. Both property owners and municipal officials may use this process to facilitate desirable annexations to the Town and to outline the conditions, which must be complied with in accomplishing the same. Annexation decisions are legislative in nature. Consequently, the Town is not required to approve a petition for annexation even though the petitioners may comply with all provisions required for annexation

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2-13.2 GENERAL PROVISIONS

The Town Council, in reviewing annexation requests and in carrying out their responsibilities and authorities with respect to the approval of annexations, shall comply with Utah State law set forth in Sections 10-2-401 through 10-2-428, inclusive (Utah Code Annotated, 1953 as amended).

In addition the Council shall consider the following:

1. Does the Town desire to annex additional land?
2. Does the Town have the capability of supplying adequate municipal services to the area proposed for annexation, such as water, sewer, electricity, police, fire and street maintenance?
3. Is the proposed annexation consistent with the Town's General Plan?
4. What conditions, if any should be attached to the proposed annexation, which are necessary in order to provide adequate services, protect health or safety, or are necessary for proper implementation of the General Plan?
5. Are the petition and plat complete and have all required fees been paid?

For purposes of this part:

1. The owner of real property shall be the record title owner according to the records of the Emery County Recorder on the date of the filing of the petition or protest; and
2. The value of private real property shall be determined according to the last assessment roll for county taxes before the filing of the petition or protest.

For purposes of each provision of this chapter requiring the owners of private real property covering a percentage or majority of the total private land area within an area to sign a petition or protest the following conditions shall apply:

1. a parcel of real property may not be included in the calculation of the required percentage or majority unless the petition or protest is signed by:
 - a. owners representing a majority ownership interest in that parcel; or
 - b. fifty (50) percent of the number of owners of that parcel, if the parcel is owned by joint tenants or tenants by the entirety;

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2. The signature of a person signing an annexation petition or protest to an annexation in a representative capacity on behalf of an owner shall be valid only if:
 - a. the person's representative capacity and the name of the owner the person represents are indicated on the petition or protest with the person's signature; and
 - b. the person provides documentation accompanying the petition or protest that substantiates the person's representative capacity; and
3. Subject to subsection(2)(b) above, a duly appointed personal representative may sign a petition or protest on behalf of a deceased owner.

2-13.3 LIMITATIONS

- A.
 1. A contiguous, unincorporated area that is contiguous to Cleveland Town may be annexed to the Town as provided in this part.
 2. An unincorporated area may not be annexed to the Town unless:
 - a. it is a contiguous area;
 - b. it is contiguous to the Town; and
 - c. except as provided in **subsection 2-13.5 (b)**, annexation will not leave or create an unincorporated island or peninsula.
- B. The Town shall not annex any unincorporated area except as prescribed by **Section 2-13.5** or **Section 2-13.6**.

2-13.4 ANNEXATION PROCESS

Annexation of unincorporated area to Cleveland Town shall be governed by the provisions of **subsection 2-13.5** if, and only if the following conditions are satisfied:

- A. the area to be annexed consists of one or more islands within, or peninsulas contiguous to, the Town; and
- B. the majority of each such island or peninsula consists of residential or commercial development; and
- C. the area proposed for annexation requires the delivery of municipal type services; and
- D. Cleveland Town has provided most or all of the municipal type services to the area for more than one year.

Annexation of all other unincorporated area to Cleveland Town must be initiated

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by petition, and shall be governed by the provisions of **subsection 2-13.6**.

2-13.5 ANNEXATION WITHOUT A PETITION. NOTICE & HEARING

- A.** Cleveland Town may annex an unincorporated area under this section without an annexation petition if, and only if, the following conditions are satisfied:
- 1.** the area to be annexed consists of one or more islands within or peninsulas contiguous to the Town: and
 - 2.** the majority of each island or peninsula consists of residential or commercial development; and
 - 3.** the area proposed for annexation requires the delivery of municipal-type services; and
 - 4.** Cleveland Town has provided most or all of the municipal-type services to the area for more than one year.
- B.** Cleveland Town may annex a portion of an island or peninsula under this section, leaving unincorporated the remainder of the unincorporated island or peninsula, if in adopting the resolution of intent under **subsection (C)(1)** below, the Town Council determines that not annexing the entire unincorporated island or peninsula is in the Town's best interest.
- C.** To annex an area under this section, the Cleveland Town Council shall:
- 1.** adopt a resolution indicating the Town Council's intent to annex the area, describing the area proposed to be annexed;
 - 2.** provide adequate notice which meets state law.
 - 3.** hold a public hearing on the proposed annexation no earlier than 60 days after the adoption of the resolution pursuant to **subsection (C)(1)**.
 - 4.** upon conclusion of the public hearing, the Town Council shall adopt an ordinance annexing the area proposed for annexation under this section unless; before or during the hearing, written protests to the annexation have been filed with the Town Recorder by the owners of private real property that:
 - a. is located within the area proposed for annexation;
 - b. covers a majority of the total private land area within the entire area proposed for annexation; and
 - c. is equal in value to at least ½ the value of all private real

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property within the entire area proposed for annexation.

- D.** If protests are timely filed that comply with **subsection (C)(4)**, the Town Council may not adopt an ordinance annexing the area proposed for annexation, and the annexation proceedings under this section shall be considered terminated.

2-13.6 ANNEXATION BY PETITION

- A.** each proposed annexation which does not meet the conditions of **subsection 2-13.5(A)** above, must be initiated by petition. Each such petition shall meet the following requirements:

1. each petition must be filed with the Cleveland Town Recorder; and
2. each petition must contain the signatures of the owners of private real property that:
 - a. is located within the area proposed for annexation;
 - b. (i) covers a majority of the private land area within the area proposed for annexation; or
(ii) if the area is within an agriculture protection area created under State Law, UCA, covers 100 percent of the private land area within the area proposed for annexation; and
 - c. is equal in value to at least 1/3 of the value of all private real property within the area proposed for annexation;
3. each petition must be accompanied by an accurate plat or map, prepared by a licensed surveyor, of the area proposed for annexation; and
4. each petition must be accompanied by proposed documents conveying required water rights to the Town for each new culinary or secondary water connection to be installed in the area to be annexed, as prescribed by Resolution ???? or any superseding resolution; and
5. each petition must designate at least one, but not more than five of the signers of the petition as sponsors, one of whom shall be designated as the contact sponsor, and indicate the mailing address of each sponsor.

- B.** The following limitations shall also apply to each petition submitted pursuant to **subsection (A)** above:

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1. A petition may not propose the annexation of all or any part of an area proposed for annexation to a municipality in a previously filed petition that has not been denied, rejected, or granted.
 2. A petition may not propose the annexation of all or any part of an area that is included in a proposal of incorporation as a municipality in a request for a feasibility study under Section 10-2-125, UCA, provided that:
 - a. the request or petition for incorporation of the area as a municipality was filed before the annexation petition was submitted for filing; and
 - b. the request for feasibility study, or incorporation petition is still pending on the date the annexation petition is submitted for filing.
 3. If practicable and feasible, the boundaries of an area proposed for annexation shall be drawn along the boundaries of existing special districts for sewer, water, and other services, along the boundaries of school districts whose boundaries follow Town boundaries or school districts adjacent to school districts whose boundaries follow Town boundaries, and along the boundaries of other taxing entities:
 - a. to eliminate islands and peninsulas of territory that are not receiving municipal-type services;
 - b. to facilitate the consolidation of overlapping functions of local government;
 - c. to promote the efficient delivery of services; and
 - d. to encourage the equitable distribution of community resources and obligations.
- C. On the date the petition is filed, the sponsors of the petition shall, deliver or mail a copy of the petition to:
1. the Emery County Clerk; and
 2. The chairperson of the Emery County Planning Commission.

2-13.7 ACCEPTANCE OR REJECTION OF AN ANNEXATION PETITION OR A MODIFIED PETITION

- A. 1. The Town Council may:
- a. deny a petition filed under **Section 2-13-6**; or
 - b. accept the petition for further consideration under this

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part.

2. If the Town Council denies a petition, it shall, within five days of the denial, mail written notice of the denial to the contact sponsor, the Emery County Clerk's Office, and the chairperson of the Emery County Planning Commission.
- B.** If the Town Council accepts a petition, the Town Recorder shall within thirty (30) days of that acceptance, perform the following:
1. with assistance of the municipal attorney and of the Emery County Clerk, Surveyor, and Recorder, determine whether the petition meets the applicable requirements of **subsection 2-13.6(A), (B)(1)** above; and
 2.
 - a. if the Town Recorder determines that the petition meets those requirements, certify the petition and mail or deliver written notification of the certification to the Town Council, the contact sponsor of the petition, the Emery County Commission, and the chairperson of the Emery County Planning Commission; or
 - b. if the Town Recorder determines that the petition fails to meet those requirements, reject the petition an mail or deliver written notification of the rejection and the reasons for the rejection to the Town Council, the contact sponsor of the petition, the Emery County Commission, and the chairperson of the Emery County Planning Commission.
 3.
 - a. If the Town Recorder rejects a petition, the petition may be modified to correct the deficiencies for which it was rejected, and may then be re-filed with the Town Recorder.
 - b. A signature on an annexation petition filed and subsequently rejected may be used toward fulfilling the signature requirement for the modified petition if re-submitted.
 4. If a petition is re-filed after having been rejected by the Town Recorder, the re-filed petition shall be processed as a newly filed petition pursuant to **subsection 2-13.6(A)** above.
- C.** The Emery County Clerk, Surveyor, and Recorder shall cooperate with and assist the Cleveland Town Recorder in the determination required by **subsection (B)(1)** above.

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2-13.8 NOTICE OF CERTIFICATION, PUBLISHING & PROVIDING & NOTICE OF PETITION

- A. After receipt of the notice of certification from the Town Recorder required by **subsection 2-13.7(B)(2)(a)** above, the Town Council shall provide adequate notice which meets Utah State law set forth in Sections 10-401 through 10-2-428, inclusive, (Utah Code Annotated, 1953 as amended).

2-13.9 PROTEST TO ANNEXATION PETITION REQUIREMENTS. DISPOSITION IF NO PROTEST AND PLANNING COMMISSION RECOMMENDATION

- A. 1. A protest to an annexation petition may be filed in accordance with state law by:
- a. the Emery County Commission; or
 - b. the board of a special district whose boundaries include part or all of the area proposed for annexation; or
 - c. the legislative body of a municipality whose boundaries are within ½ mile of the area proposed for annexation; or
 - d. the owners of private real property that:
 - (i) is located in the unincorporated area within ½ mile of the area proposed for annexation;
 - (ii) covers at least twenty five (25%) percent of the private land area located in the unincorporated area within ½ mile of the area proposed for annexation; and
 - (iii) is equal in value to at least fifteen (15%) percent of all real property located in the unincorporated area with ½ mile of the area proposed for annexation.
2. The Emery County Planning Commission may recommend to the Emery County Commission that the County Commission file a protest against a proposed annexation of an unincorporated area located within the County.
3. The Emery County Planning Commission shall communicate each recommendation for protest in writing to the Emery County Commission, to the Cleveland Town Council, and to the contact sponsor of the petition within thirty (30) days of the Town Recorder's certification of the annexation petition.

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- B.** Protests to annexation petitions shall meet Utah State law set forth in Sections 10-2-401 through 10-2-428, inclusive, (Utah Code Annotated, 1953 as amended).
1. Each protest shall state each reason for the protest of the annexation petition.
 2. The party filing a protest under this section shall, on the same date, deliver or mail a copy of the protest to the Town Recorder.
 3. Each protest shall be filed with the boundary commission, or if Emery County has not created a boundary commission, then with the Emery County Clerk; and
 4. If Emery County has not established a boundary commission at the time of the submission of a protest, the Town Recorder shall immediately notify the Emery County Commission of the protest and shall deliver the protest to the boundary commission within five (5) days of its creation pursuant to 10-2-409(1)(b), UCA.
 5. Each protest filed by owners of private real property, pursuant to **subsection (A)(1)(d)** above, shall:
 - a. indicate the typed or printed name and current residence address of each owner signing the protest; and
 - b. designate one of the signers of the protest as the contact person and state the mailing address of the contact person.
- C.**
1. a. If a protest to the annexation petition is filed:
 - (i) the Town Council may, at its next regular meeting after expiration of the deadline prescribed by **subsection (B)(1)** above, deny the annexation petition; or
 - (ii) if the Town Council does not deny the annexation petition, the Town Council shall take no further action on the annexation petition until after receipt of the boundary commission's notice of its decision on the protest under **Section 2-13.13** below.
 - b. If the Town Council denies an annexation petition, the Council shall, within five (5) days of the denial, send notice of the denial in writing to:
 - (i) the contact sponsor of the annexation petition; and
 - (ii) the boundary commission; and
 - (iii) each entity that filed a protest; and

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- (iv) if a protest was filed pursuant to **subsection (A)(1)(d)** above, the contact person indicated in the protest.
- 2. a. If no timely protest to the annexation petition is filed, the Town Council may grant the petition and, by ordinance, annex the area that is the subject of the annexation petition.
- b. Before granting the annexation petition, the Town Council shall:
 - (i) hold a public hearing; and
 - (ii) at least seven (7) days before the public hearing, publish notice of the hearing in a newspaper of general circulation within Cleveland Town and within the area proposed for annexation.

2-13.10 FEASIBILITY CONSULTANT. FEASIBILITY STUDY AND MODIFICATIONS TO FEASIBILITY STUDY

- A. If at its next regular meeting after expiration of the deadline prescribed by **subsection 2-13.9(B)(1)** above, the Cleveland Town Council does not deny the annexation petition, the boundary commission shall not require a feasibility study with respect to a proposed annexation that meets the following criteria:
 - 1. The annexation petition proposes the annexation of an area that is undeveloped; and
 - 2. The area proposed for annexation covers an area that is equivalent to less than 5 percent of the total land mass of all private real property within the municipality.
- B.
 - 1. If at its next regular meeting after expiration of the deadline prescribed by **subsection 2-13.9(B)(1)** above, the Cleveland Town Council does not deny the annexation petition, and the proposed annexation does not meet the criteria of **subsection (A)(1) and (2)** above, the boundary commission shall select and engage a feasibility consultant within forty-five (45) days of:
 - a. the boundary commission's receipt of a protest, if the boundary commission had been created before the filing of the protest; or
 - b. the boundary commission's creation, if the boundary commission is created after the filing of a protest.
 - 2. The boundary commission shall require the feasibility consultant to:

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- a. complete a feasibility study on the proposed annexation and submit written results of the study to the boundary commission no later than seventy-five (75) days after the feasibility consultant is engaged to conduct the study; and
 - b. submit with the full written results of the feasibility study a summary of the results no longer than one page in length; and
 - c. attend the public hearing required by **subsection 2-15.9(A)** and present the feasibility study results and respond to questions at that hearing.
 3.
 - a. Subject to any modifications granted by the boundary commission, pursuant to **subsection (b)**, the feasibility study shall consider criteria as outlined in Utah State law set forth in Sections 10-2-401 through 10-2-428, inclusive, (Utah Code Annotated, 1953 as amended).
- C. Within ten (10) days of the boundary commission's receipt of the notice pursuant to **subsection (B)(2)** above, the boundary commission shall engage the feasibility consultant that conducted the feasibility study to supplement the feasibility study to take into account the information in the modified annexation petition that was not included in the original annexation petition.
- D. The boundary commission shall require the feasibility consultant to complete the supplemental feasibility study and to submit written results of the supplemental study to the boundary commission no later than thirty (30) days after the feasibility consultant is engaged to conduct the supplemental feasibility study.

2-13.11 PUBLIC HEARING & NOTICE

The Boundary Commission shall comply with notices and hearings as prescribed in Utah State law set forth in Sections 10-2-401 through 10-2-428, inclusive, (Utah Code Annotated, 1953 as amended).

2-13.12 BOUNDARY COMMISSION DECISION. WRITTEN DECISION

- A. After the public hearing required by **subsection 2-13.11**, the boundary commission may decide to:
 1. Approve the proposed annexation, either with or without conditions

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2. Make minor modifications to the proposed annexation and approve it, either with or without conditions, or
 3. Not approve the proposed annexation.
- B.** The boundary commission shall issue a written decision on the proposed annexation within twenty (20) days of the conclusion of the hearing required by **subsection 2-13.9** and shall send a copy of the decision to:
1. The Emery County Commission;
 2. The Cleveland Town Council;
 3. The contact person on the annexation petition;
 4. Each entity that filed a protest; and
 5. If a protest was filed under **subsection 2-13.10(A)(1)(d)**, the contact person.

2-13.13 DISTRICT COURT REVIEW

- A.** Review of a boundary commission decision may be sought in the district court with jurisdiction in Emery County, by filing a petition for review of the decision within twenty (20) days of the boundary commissions' decision under **Section 2-13.12**.
- B.** The district court review shall be on the record of the hearing under **Section 2-13.11** and may not be de novo review.
- C.** The district court shall affirm the boundary commission's decision unless the court determines that the decision is arbitrary or capricious.

2-13.14 DENIAL OR APPROVAL OF THE ANNEXATION PETITION

After receipt of the boundary commission's decision on a protest under **subsection 2-13.12(B)**, the Town Council may:

- A.** Deny the annexation petition ; or
- B.** If the boundary commission approves the annexation, grant the annexation petition and by ordinance and consistent with the boundary commission's decision, annex the area that is the subject of the annexation petition.

2-13.15 ZONING OF ANNEXED TERRITORY

- A.** The Town Council may assign a zoning designation to territory annexed to the Town at the time the territory is annexed.

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- B.** If the Town Council does not designate a zone for the territory to be annexed to the Town at the time it is annexed, the annexed territory shall be zoned according to the existing zone with Cleveland Town with which it has the longest common boundary.

2-13.16 BOUNDARY ADJUSTMENT. NOTICE, HEARING & PROTEST

- A.** The Cleveland Town Council, may adjust its common boundaries with other municipalities as provided in this section.
- B.**
1. The Cleveland Town Council, when intending to adjust a boundary that is common with another municipality shall:
 - a. adopt a resolution indicating the intent of the Town Council to adjust a common boundary and:
 - b. comply with all state requirements for public hearings and notices.
- C.** Upon conclusion of the public hearing under **subsection (B)(1)(b)**, the Town Council may adopt an ordinance adjusting the common boundary unless, before or during the hearing under **subsection (B)(1)(b)**, written protests to the adjustment have been filed with the Town Recorder by the owners of private real property that:
1. Is located within the area proposed for adjustment;
 2. Covers at least twenty five (25%) percent of the total private land area within the area proposed for adjustment; and
 3. Is equal in value to at least fifteen (15%) percent of the value of all private real property within the area proposed for adjustment.
- D.** An ordinance adopted under **subsection (C)** becomes effective when each municipality involved in the boundary adjustment has adopted an ordinance under **subsection (C)**.

2-13.17 BONDS NOT AFFECTED BY BOUNDARY ADJUSTMENTS OR ANNEXATIONS. PAYMENT OF PROPERTY TAXES

- A.** A boundary adjustment or annexation may not jeopardize or endanger any general obligation or revenue bond.

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- B.** A bondholder may require the payment of property taxes from any area that:
 - 1. Was included in the taxable value of the municipality or other governmental entity issuing the bond at the time the bond was issued; and
 - 2. Is no longer within the boundaries of the municipality or other governmental entity issuing the bond due to the boundary adjustment or annexation.

2-13.18 ELECTRICAL UTILITY SERVICE IN ANNEXED AREA

- A.** If the electric consumers of the area being annexed are receiving electric utility services from sources other than Cleveland Town, the Town may not, without the consent of the electric utility, furnish its electric utility service to the electric consumers until the Town has reimbursed the electric utility company which previously provided the services for the fair market value of those facilities dedicated to provide service to the annexed area.
- B.** If Cleveland Town and the electric utility cannot agree on the fair market value, it shall be determined by the state court having jurisdiction.

2-13.19 CONCLUSIVE PRESUMPTION OF ANNEXATION

An area annexed to Cleveland Town under this part shall be conclusively presumed to have been validly annexed if:

- A.** Cleveland Town has levied, and the taxpayers within the area have paid, property taxes for more than one year after annexation; and
- B.** No resident of the area has contested the annexation in a court of proper jurisdiction during the year following annexation.

2-13.20 FILING OF PLAT OR MAP. NOTICE REQUIREMENTS

- A.** Within thirty (30) days after enacting an ordinance annexing an unincorporated area or adjusting a boundary under this chapter, the Town Council shall record with the Emery County Recorder a certified copy of the ordinance approving the annexation or boundary

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adjustment, together with a plat or map prepared by a licensed surveyor and approved by the Town Council, showing the new boundaries of the affected area.

- B.** The Cleveland Town Council shall comply with the notice requirements of Section 10-1-116, UCA.

2-13.21 DIVISION OF MUNICIPAL-TYPE SERVICES REVENUES

- A.** The Emery County Commission shall, until the date of annexation, continue;
 - 1. To levy and collect ad valorem property tax and other revenues from or pertaining to the area; and
 - 2. Except as otherwise agreed by the Emery County Commission and the Cleveland Town Council, to provide the same services to the area proposed for annexation as the County provided before the commencement of the annexation proceedings.
- B.**
 - 1. The Emery County Commission shall, after annexation, share pro rata with Cleveland Town the taxes and service charges or fees levied and collected by the County under Section 17-34-3, UCA during the year of the annexation if, and to the extent that, Cleveland Town provides, by itself or by contract, the same services for which the County levied and collected the taxes and service charges or fees.
 - 2. The pro rata allocation of taxes under **subsection (B)(1)** shall be based on the date of annexation, and the pro rata allocation of service charges and fees shall be based on the proportion of services related to the service charges and fees that remain to be rendered after annexation.