
MEMORANDUM

TO: Members of Council
FROM: Tanisha R. Briley, City Manager
DATE: June 22, 2018
RE: June 25, 2018

MEETINGS & REMINDERS

Saturday, June 23	-	9:00 a.m. - Noon	Shredding Day
Monday, June 25	-	3:00 p.m.	- Civil Service Commission
	-	6:30 p.m.	- Joint Board with Cleveland Heights-University Heights Board of Education
Wednesday, June 27	-	7:00 p.m.	- Immigration Task Force
Thursday, June 28	-	6:00 p.m.	- Meet Your Police

LEGISLATION

1. Align2Market Branding Contract
2. National Park and Recreation Month
3. Small Cell Tower Regulations and Design Guidelines, *First Reading*

GENERAL INFORMATION

1. Enclosed is an update from the City Manager.
2. Enclosed is the agenda for the Joint Meeting with the School Board.
3. Enclosed is an update from the Vice City Manager.
4. Enclosed are updates from the Public Works Director.
5. Enclosed is an update from the Planning and Development Director.
6. Enclosed is an update from the Economic Development Director.
7. Enclosed is an update from the Housing Director.
8. Enclosed is the weekly activity report from the Fire Chief.
9. Enclosed is the weekly activity report from the Police Chief.
10. Enclosed are the actions for BZA.
11. Enclosed are the minutes for ABR.

TRB/jkw
Enclosures



COUNCIL UPDATE

JUNE 22, 2018

1. LEGISLATION

- **Align2Market Branding Contract.** This legislation authorizes the City Manager to enter into an agreement with Align2Market to discover and define the brand of the City of Cleveland Heights and establish tools and resources to promote said brand.
- **National Parks and Recreation Month.** This legislation proclaims July 2018, *National Parks and Recreation Month*, in the City of Cleveland Heights.
- **Small Cell Tower Regulations and Design Guidelines, First Reading.** This legislation enacts Chapter 943, "Use of Public Ways for Small Cell Wireless Facilities and Wireless Support Structures," of Part Nine, *Streets, Utilities and Public Services Code* of the Codified Ordinances of Cleveland Heights.

2. JOINT SCHOOL BOARD MEETING – MONDAY, JUNE 25, 2018 @ 6:30 PM

- The draft agenda for the second quarterly joint meeting of City Council and the CH-UH Board of Education is enclosed. The meeting will be held at the Board of Education offices, 2155 Miramar Boulevard, University Heights, Ohio 44118.

3. RACIAL EQUITY INSTITUTE GROUND WATER WORKSHOP

- Over 100 participants attended the Racial Equity Institute Groundwater Workshop hosted by the City and the School District on Thursday, June 21, 2018. The attendees comprised of the leadership teams of the City and School District including Board of Education members and Mayor Carol Roe, along with many of our community partner organizations such as the Library, Reaching Heights, Home Repair Resource Center, and Family Connections.
- The workshop was stimulating and thought-provoking and all participants were encouraged to think about the systems we manage and/or influence so that we might bring a racial equity lens to the programs and services we deliver whether we are educators or public servants.

- We are looking forward to a continued community dialogue and stronger partnership with the school district and others as we pursue a more racially equitable Cleveland Heights.

4. COUNCIL MEETING PLANNING CHART

- As we prepare to wrap up the second quarter of the calendar year, I have enclosed the most recent chart to assist you in planning for future Council meetings. As previously mentioned, the dates highlighted in yellow reflect a change from the normal meeting schedule. Please be sure to adjust your calendars accordingly.

Monday, June 25, 2018
City of Cleveland Heights Joint Meeting
DRAFT

2155 Miramar Boulevard | University Heights, OH 44118
Board of Education | Board Room
6:30 PM

A. Opening of Meeting

1. Introductions

B. CH-UH School Board Items

1. 2017 State Report Card Data Presentation

Presented by Allison Byrd, *Director of Data, Research & Assessment*

2. 2018 Quality Profile

3. Middle School Construction Update

4. Phase II Facilities Project Update

C. City of Cleveland Heights Items

1. Development Update

- Top of the Hill
- Meadowbrook & Lee

D. Joint Discussion Items

1. Racial Equity & Inclusion Workshop Update

2. Pool Hours Discussion

3. After School Programs Discussion

- Heights Youth Club
- Boys & Girls Club at Noble Elementary
- Success of CH-UH After School Programs

E. Other Business

F. Closing of Meeting

1. Adjournment



2018 City Council Planning Calendar

Meeting Date	Agenda Item	Description
January 8, 2018	Discussion of Meeting Protocols	City Council will come to an agreement on basic protocols for meetings which can be incorporated in to Council Operational Guidelines in the future
	Discussion of Council Committee Meetings	Introduce the topic of improving the effectiveness of Council Committees
	Water Transition Update	Staff will provide an update regarding the transition to Cleveland Water
	Zoning Code Amendments	Discuss tabled amendments to the Zoning Code including proposed changes to the C-1 District and the family definition
	Discussion of 2017 Council & City Manager Priorities	Staff will present an update on 2017 Priorities
	Executive Session	To consider the terms of a lease of City-owned real property
January 16, 2018	Council Calendar Discussion	Discuss Council calendar for 1Q2018 and decide on summer and winter recess dates and January's 5 th Monday
January 22, 2018	2018 Council Policy Priorities	Discuss Council member policy priorities for 2018
	2017 Financial Year End Report	Staff will present the year end financials for 2017
January 25, 2018 Democracy Day Public Hearing	Public Hearing	Council members will participate in the Democracy Day Public Hearing per the citizen petition adopted by residents in the November 2013 general election



2018 City Council Planning Calendar

Meeting Date	Agenda Item	Description
January 29, 2018	No Meeting	
February 5, 2018	2018 Council Policy Priorities Council	Follow up on Council member policy priorities for 2018
	Discussion of Council Committee Meetings	Distribute handout on proposed revised Council committees
February 12, 2018	Revised Council Committees Discussion	Discuss proposed revised Council Committees
	Electric Aggregation Program Update	Staff will present an update on the electric aggregation program
	Mr. Briskett Loan Application	Staff will present loan proposal for Mr. Briskett expansion
	Meadowbrook & Lee RFQ Draft	Staff will review the draft RFQ for the Meadowbrook & Lee site
	Executive Sessions	<ol style="list-style-type: none"> To discuss, with an attorney for the public body, claims or disputes involving the public body that are the subject of pending court action To consider the employment of a public official
February 20, 2018 (Tuesday)	Executive Session	<ol style="list-style-type: none"> To discuss, with an attorney for the public body, claims or disputes involving the public body that, in the judgment of such attorney, appear likely to be the subject of a future claim



2018 City Council Planning Calendar

Meeting Date	Agenda Item	Description
	Public Safety Reports	The annual presentations from the Police and Fire Chiefs on the previous year's activity. This will be done during the regular City Council meeting
February 26, 2018	Monthly Financial Report	Staff will present the monthly financials for the previous month
	Meeting Practices	Council will discuss meeting practices such as meeting minutes and recordings
	Council Priorities Discussion Pt. III	Follow up on Council member policy priorities for 2018 (delayed)
	Compensation & Classification Study Presentation	Staff will present the results of a compensation and classification study
	Executive Session	To discuss, with an attorney for the public body, claims or disputes involving the public body that, in the judgment of such attorney, appear likely to be the subject of a future claim
March 5, 2018	Wage & Salary Ordinance – 1 st Reading	
	Joint City Council/School Board Meeting Planning	Council will discuss the agenda for the upcoming joint meeting
	Council Priorities Discussion Pt. III	Council will finalize 2018 -2019 Policy Priorities
	Executive Session	To discuss, with an attorney for the public body, claims or disputes involving the public body that, in the judgment of such attorney, appear likely to be the subject of a future claim



2018 City Council Planning Calendar

Meeting Date	Agenda Item	Description
March 12, 2018	Joint City/School Board Meeting	Joint Strategic Priorities Discussion
		School Safety Plan
March 19, 2018	Public Safety Swearing In Ceremony	
	Wage & Salary Ordinance – Final Reading	
	Immigration Task Force	Mayor will advise of the latest developments and next steps concerning this topic
	Executive Session	To discuss, with an attorney for the public body, claims or disputes involving the public body that, in the judgment of such attorney, appear likely to be the subject of a future claim
March 26, 2018	Monthly Financial Report	Staff will present the monthly financials for previous month
	CDC Working Group Recommendations	The CDC Working Group will present its final recommendations for Council consideration



2018 City Council Planning Calendar

Meeting Date	Agenda Item	Description
	Complete Streets Policy Presentation	Staff will present the Complete Streets Policy for Council consideration
	CH-UH Schools Advocacy	Discuss drafts of resolutions opposing recent State legislation and partnership with other city councils
	Executive Sessions	<ol style="list-style-type: none"> To discuss, with an attorney for the public body, claims or disputes involving the public body that, in the judgment of such attorney, appear likely to be the subject of a future claim To consider the terms of a lease of City-owned real property
	Other Routine & Proposed First Quarter Topics:	CM Evaluation Complete Streets Policy CDC Working Group Recommendations
April 2, 2018	Council Committees & Liaisons	The Mayor will lead a discussion on Council Committees tasks and assign Council liaisons to Boards & Commissions
	Executive Session	<ol style="list-style-type: none"> To discuss, with an attorney for the public body, claims or disputes involving the public body that, in the judgment of such attorney, appear likely to be the subject of a future claim
April 9, 2018	Council Committees & Liaisons	Council members will discuss Council Committees & liaisons to Boards and Commissions



2018 City Council Planning Calendar

Meeting Date	Agenda Item	Description
	City Council Operating Guidelines	Council members will discuss Operating Guidelines
	CDC Discussion	Council will discuss options for CDC agreement
	Citywide CRA Plan	Staff will present final recommendation for citywide CRA
	Executive Sessions	<ol style="list-style-type: none">1. To discuss, with an attorney for the public body, claims or disputes involving the public body that, in the judgment of such attorney, appear likely to be the subject of a future claim2. To consider the investigation of complaints against a public employee
April 16, 2018	Poet Laureate Presentation (During Council Meeting)	
	Master Plan Update (During Council Meeting)	
	Net Neutrality Discussion	City Council will determine whether or not to sign on to a pledge opposing net neutrality



2018 City Council Planning Calendar

Meeting Date	Agenda Item	Description
	City Council Operating Guidelines	Council members will discuss Operating Guidelines
	Executive Sessions	1. To discuss, with an attorney for the public body, claims or disputes involving the public body that, in the judgment of such attorney, appear likely to be the subject of a future claim
April 23, 2018	Monthly Financial Report	Staff will present the monthly financials for the previous month
	Issue 1 Letter	Council will discuss the draft letter in support of Issue 1
	Net Neutrality Discussion	City Council will determine whether or not to sign on to a pledge opposing net neutrality
	Gun Control Legislation	Council members will discuss draft legislation supporting gun control
	Executive Sessions	1. To discuss, with an attorney for the public body, claims or disputes involving the public body that, in the judgment of such attorney, appear likely to be the subject of a future claim 2. To consider the terms of a lease of City-owned real property 3. To discuss the appointment of a public official



2018 City Council Planning Calendar

Meeting Date	Agenda Item	Description
April 30, 2018 (5th Monday)	No Meeting	
May 7, 2018	Boards & Commissions Liaisons	Council members will discuss the roles and expectations of liaisons to Boards and Commissions and determine assignments
	Executive Sessions	<ol style="list-style-type: none"> 1. To discuss, with an attorney for the public body, claims or disputes involving the public body that, in the judgment of such attorney, appear likely to be the subject of a future claim 2. To review negotiations with public employees or their representatives concerning such employees compensation or other terms and conditions of their employment
May 14, 2018	CH-UH Library Update	Library Director Nancy Levin will present an update to City Council regarding Library activities
	Boards & Commissions Liaisons	Council members will discuss the roles and expectations of liaisons to Boards and Commissions and determine assignments
	Professional Oversight/Owner Rep for Sewer Studies	
	Bid Procedures	



2018 City Council Planning Calendar

Meeting Date	Agenda Item	Description
	Boulevard Townhomes Land	
	Executive Sessions	<ol style="list-style-type: none"> 1. To discuss, with an attorney for the public body, claims or disputes involving the public body that, in the judgment of such attorney, appear likely to be the subject of a future claim 2. To consider the terms of a purchase of real property for public purposes 3. To discuss the appointment of a public official
May 22, 2018 (Tuesday)	CDBG Funding	Staff will present recommendations for the additional CDBG dollars received
	Executive Sessions	<ol style="list-style-type: none"> 1. To discuss, with an attorney for the public body, claims or disputes involving the public body that, in the judgment of such attorney, appear likely to be the subject of a future claim 2. To consider the investigation of complaints against a public employee 3. To discuss the appointment of a public official
May 29, 2018 (Tuesday)	Income Tax Offset Program	Economic Development Staff will present a new tool business attraction tool for Council consideration
	Debt Repayment Discussion	Staff will present a brief update on the City's outstanding obligations for bond anticipation notes
	Monthly Financial Report	Staff will present the monthly financials for previous month



2018 City Council Planning Calendar

Meeting Date	Agenda Item	Description
	CRC Discussion	Council members will discuss the Charter Review Commission process
	Executive Sessions	<ol style="list-style-type: none"> To discuss, with an attorney for the public body, claims or disputes involving the public body that, in the judgment of such attorney, appear likely to be the subject of a future claim To consider the terms of a lease of City-owned real property To discuss the appointment of a public official
June 4, 2018	5 –Year Financial Forecast Presentation	Staff will present the 2019-2023 Financial Forecast
	Executive Sessions	<ol style="list-style-type: none"> To discuss the appointment of a public official
June 11, 2018	Meadowbrook/Lee Presentations	Council members will receive presentations from developers interested in the Meadowbrook & Lee property
	Citywide CRA	Staff will present an update on the citywide CRA project
June 18, 2018	Noble Gas Liquor License	Staff will present rationale for objection to transfer of Noble Gas liquor license



2018 City Council Planning Calendar

Meeting Date	Agenda Item	Description
	Resident Survey	Staff will review the 2018 Resident Survey process with Council
	Executive Session	<ol style="list-style-type: none"> 1. To consider the terms of a lease of City-owned real property 2. To discuss, with an attorney for the public body, claims or disputes involving the public body that, in the judgment of such attorney, appear likely to be the subject of a future claim
	Public Safety Swearing In Ceremony	
June 25, 2018	Joint City/School Board Meeting	
	Other Routine & Proposed Second Quarter Topics:	CM Evaluation Union Negotiations Landmark Commission Recommendations
July 2, 2018	Tax Budget, First Reading	
July 9, 2018	GCC Noble Neighborhood Bus Ride	



2018 City Council Planning Calendar

Meeting Date	Agenda Item	Description
July 16, 2018	Tax Budget Public Hearing & Final Reading 1 & 2Q2018 Update on Priorities & Master Plan	
July 23, 2018	Monthly Financial Report	Staff will present the monthly financials for previous month
July 30, 2018 (5 th Monday)		
Summer Recess July 31, 2018 – September 3, 2018		
September 4, 2018 (Tuesday)		
September 12, 2018 (Wednesday)	2018 Resident Survey Results Presentation	
September 17, 2018	Public Safety Swearing In Ceremony	



2018 City Council Planning Calendar

Meeting Date	Agenda Item	Description
September 24, 2018	Joint City/School Board Meeting	
	Other Routine & Proposed Third Quarter Topics:	Municipal Broadband Source of Income Discrimination
October 3, 2018 (Wednesday)		
October 9, 2018		
October 15, 2018		
October 22, 2018	Monthly Financial Report 3Q2018 Update on Priorities & Master Plan	Staff will present the monthly financials for previous month
October 29, 2018 (5 th Monday)	2019 Operating & Capital Budget Workshop	



2018 City Council Planning Calendar

Meeting Date	Agenda Item	Description
November 5, 2018		
November 13, 2018	2019 Operating & Capital Budget Workshop	
November 19, 2018	2019 Appropriations Ordinance 1 st Reading 2018 Appropriations Amendment 1 st Reading	
November 26, 2018	2019 Operating & Capital Budget Workshop (if needed)	
December 3, 2018	Public Safety Swearing In Ceremony 2019 Appropriations Ordinance First Reading 2018 Appropriations Amendment Final Reading	
Winter Recess December 4, 2018 – January 6, 2019		

TO: TANISHA R. BRILEY, CITY MANAGER

FROM: SUSANNA NIERMANN O'NEIL, ASSISTANT CITY MANAGER

RE: COMMUNITY OUTREACH UPDATE

DATE: JUNE 22, 2018

CHARTER REVIEW COMMISSION:

The Charter review Commission (13 members present) voted on 4 motions last night (presented here not in legalize just in fact):

- 1.) Elect a Strong Mayor – 10 no 2 yes and 1 abstain
- 2.) Retain City Manager form of government – 11 yes and 2 no;
- 3.) Retain 7 Council members – 13 yes
- 4) Retain all 7 Council members at Large - 9 yes and 3 no (one member had left before the vote)

Going forward the Commission will be going thru the Charter section by section to determine what further recommendations are needed. Reminder: All Commission meetings are online and all submissions to the Charter members are posted.

COMMUNITY RELATIONS:

- Block parties on Saturday June 23rd : Rumson 3 to 7:00pm and Vandemar 4 until dusk
- A memorial bench in honor of Kayleigh Mooney has been installed on the grassy area at Edgehill and Euclid Hts Blvd. Staff has been working with the Mooney family for the last few weeks on the installation. Special thanks to Public Works for their thoughtful approach with the family.

COVENTRY SID:

- Summer events are rolling along thanks to the good work of Lisa Miller who is temporarily coordinating until an Executive Director is hired. The showing of the movie Black Panther last Thursday on the Coventry hill was the largest audience ever! Tomorrow June 23rd is their sidewalk sale.

COMMUNICATION UPDATE:

- Good work continues with Director Trupo and her team getting ready for the long awaited promotional initiative . Coordination of names for Focus groups and a timeline is being put in place.
- The Crain's ad/promotional page featuring economic development tools in Cleveland Heights has been completed.

SOCIAL MEDIA/FACEBOOK:

- Extensive promotion of Shredding Day (June 23rd from 9:00 to noon); various road closures and water line breaks; the Police swearing in ceremony; Tommy's receiving recognition once again as a great go to place.



To: Tanisha Briley – City Manager
From: Alex Mannarino – Director of Public Works
Date: June 22, 2018
Subject: Public Works Weekly Update

Forestry:

- Tree Tracker work history from June 14, through June 20, 2018.
- YTD: Trimmed 177 trees, removed 159, planted 150 trees, stumps ground 124, and dumped 89 loads of woodchips and 39 loads of logs

Sewer:

- Repaired catch basin at Station 3
- Repaired catch basin at Marc's parking lot
- Repaired storm main at 2460 Euclid Hts.
- Prepped and cemented road hole at 2217 South Overlook
- Set road plate at 3308 Kildare
- Unblocked sanitary main on Chestnut Hills
- Cleaned the sanitary line at Cain Park
- Unblocked the sanitary main at Chelsea and Burlington
- Unblocked the sanitary main at South Taylor and Monticello
- Videoed storm and sanitary mains with pole camera at Delamere and Nottinghill
- Investigated a CWD water main break at Parkway and Redwood
- Cleaned the sanitary mains at Cain Park, 3325 Sylvanhurst, 3346 Henderson, Superior and Marlindale, and Redwood and Parkway
- Attended the Racial Equality seminar at the High School
- Brought scrap to scrap yard
- Attended Supervisor Training #4
- Attended Delamere Plan Meeting
- Attended a Supervisor's meeting
- Painted fire hydrants on Coleridge and Essex
- Marked O.U.P.S. tickets
- Hauled dirt to Boyas

Sewer Service Calls:

- 17430 Shelburne, 1142 Castleton, 2540 Bolton, 971 Roanoke, 2618 Canterbury, 2617 Dartmoor, 1920 Powell, 3060 Chelsea, 1103 Rutherford, 3167 Chelsea, 3057 Washington, 1609 Rydalmount, 1450 Rydalmount

Water Admin:

- **CWD:**
 - Obtained Final Readings
 - Turned water off/on for plumbing repairs
 - Investigated water complaints regarding leaks

Refuse:

- Transported 266.18 (17 loads) of refuse to Shiloh landfill and 31.02 tons (2 loads) to Harvard Transfer Station
- Transported 45.22 (4 loads) of yardwaste to Maddon Bros
- Transported 62.57 tons (7 loads) of mixed recycling to Kimble

Streets Maintenance:

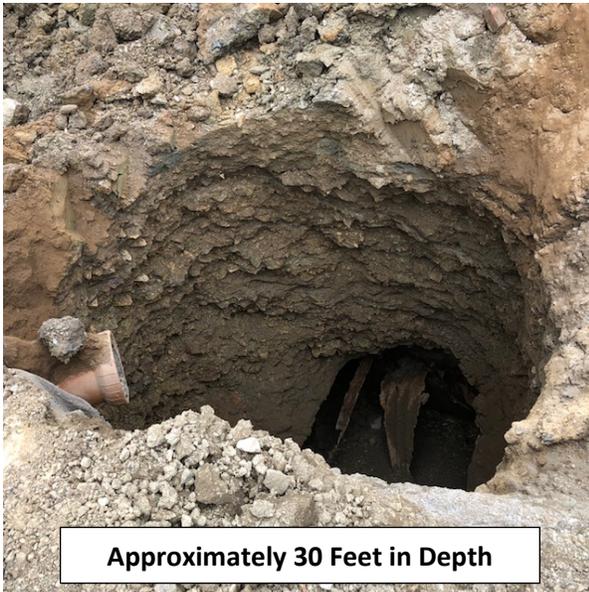
- **Asphalt:** 3731 Northampton (basin, Selwyn (at Rosedale, 1135, 1121, 1102, 1087, 1071, 1051, 1039, 1031, at Hartwood, at Winsford, 891), 3273 E. Monmouth (basin, 2325 Delamere (apron), 2420 S Taylor (CWD), 2537 S Taylor (CWD cutout), 3695, 3687 Blanche, (potholes), 4003 Rosemond (potholes), Superior at S Taylor (CWD cutout/potholes), Euclid Hts (2624, 2728), Coventry (2221, at Clarkson, 1999)
- **Crackseal:** cutouts - Janette at Bendemeer. 3657 Bendemeer, Maple at Crest, 1586 Wood, 2602 Guilford, 3891 Northampton, 3747 Northampton, 3731 Northampton, 3273 E Monmouth. 2419 Lee Rd, 3406 Ormond
- **Construction Crew:** 2419 Lee Rd (CWD cutout 6x7 main side, concrete), Euclid Hts at Edgehill (installed 10x10 concrete pad), Washington at S Taylor (CWD cutout, concrete 12x12), 2591 Queenston (CWD cutout 10ft of curb replaced, 1 sidewalk blk, 13x11), 2583 Queenston (sinkhole, replaced 7ft of curb)
- **Miscellaneous:** Special pick up (Kildare Sanitation Dept.), cleaned Bullpen, moved planters on Warrensville
- **Sweepers:** All three are down
- **Hauling:** Grinding leaves, woodchips, hauling mulch (Midwest)
Tractor Trailer – 10 Tandem Dumps- 4 from cemetery

MEMORANDUM

To: Tanisha Briley-City Manager
From: Alex Mannarino-Director of Public Works
Date: June 22, 2018
Re: Capital Projects Weekly Update

Community Center – Dugway East Culvert Failure

Perk Company mobilized this week, delivering their equipment and setting up the work area. They started excavating and found the location where the culvert side wall had collapsed. Excavation work will continue through next week.



Cedar Road Resurfacing/Cedar-Fairmount Streetscape

We have a final walkthrough scheduled with ODOT for next week.

Cuyahoga County Aggregated Solar Project

No new updates

Mayfield Signalization

No new updates

Safe Routes to Schools – ODOT PID 101112

Stage 3 comments from ODOT have been received and are currently being addressed.

#18-01 North Park – Buffered Bike Lane – ODOT PID 106001

TraffTech was out striping this week.

Edgehill and Overlook Intersection Re-Design – ODOT PID 106749

Stage 3 Plans should be prepared and ready for ODOT sometime next week.

2018 Street Resurfacing Program

Stoneleigh and Randolph were finished this week, and the contract ground the pavement on Warrensville Center (between Noble and Mayfield). They are tentatively scheduled to pave the first (intermediate) course on Monday, June 25th (weather permitting). Concrete curb, sidewalk, and manhole/catch basin adjustments will start immediately thereafter.

2018 Surface Treating Program

No new updates. Chip sealing will not begin until July.

2018 Pavement Striping Program

No new updates

Dominion East Ohio

Woodview and Elbon PIR-1527

The restoration work is completed.

Washington Boulevard PIR-3047

Plans have been submitted for approval. We are currently reviewing them.

Euclid Heights Boulevard

The City Forester met with the project designer to evaluate any potential impact to trees this past week.

Architectural Board of Review

Fourteen mostly simple cases were decided quickly. New member Greg Goss did a good job in his debut. The July 3 meeting has 23 cases including 3123 Monticello where a clay tile roof is being replaced using asphalt shingles. The Forest Hill Homeowners' Association is closely following this.

Cleveland Heights
Economic Development



To: City Manager Tanisha Briley
From: Economic Development Director Tim Boland
Subject: Activities Report – June 22, 2018

Activities and Initiatives:

1. Community Reinvestment Area (CRA) Re-design Project

Staff has revised the following sections of the legislation to enact the proposed City-wide CRA. These changes are included in this packet, along with the program matrix and scoring map, and are described as follows:

Section 2. (c), (i), & (k) – Minimum investment criteria:

- Town Homes & Condominiums - New Construction has been structured to provide a tiered approach dependent on target criteria level - \$270,000 minimum if in a 6 or > target criteria area (“RED” areas illustrated on the CRA Scoring Map); \$330,000 minimum if in a 5 target criteria area (“YELLOW” areas illustrated on the CRA Scoring Map); and \$400,000 minimum if in a < 5 target criteria area (“BLUE” areas illustrated on the CRA Scoring Map) – all such construction, which includes meeting sustainability/“Green” requirements basic certification level, would be eligible for 15 year / 100% tax abatement. It should be noted that there is a base exemption level of 7 years 65% available for new Town Homes & Condominium construction that does not meet these minimum investment levels – and a base level exemption that does not include sustainability/“Green” requirements or minimum investment levels that provides a 5 year 25% exemption that is also available.

The purpose of these changes is to reflect different markets within the City, and provide reasonable abatement tiers to be responsive to these markets. Examples of these different markets include comparing projects such as the proposed College Club Townhomes, the Bluestone project on Mayfield Road, and the town homes on Noble Road between Greyton and Nelaview. As structured, the tiers encourage greater investment levels and sustainability/“Green” construction, without closing out less robust projects (these projects just receive lower abatement term and % levels).

- Residential Rehab in a National Register of Historic Places designated district (NRHD) or locally designated property – minimum investment level is now \$10,000. We should remember that such projects are also required to carry out the rehab consistent with the Secretary of the Interior’s Standards for Rehabilitation (SISR) which are quite rigorous to begin with.
- Commercial Renovation - minimum investment level is now \$250,000.

Staff has also revised Section 8 to include a “5 year program review” provision, as was discussed at the June 18 Committee of the Whole meeting, and the inclusion of a “sunset” provision which “grandfathers” the College Club project, which is currently making its way through our planning, development and building process, until July 1, 2025.

I look forward to answering any questions.

2. Top of the Hill Community Meeting #2:

I am pleased to report that the City received tremendous response to the series of three meetings provided during the day on June 19 for the Top of the Hill Project. The Cedar Fairmount Merchants & Businesses meeting and the meeting with The Buckingham residents each had roughly 20 – 30 people in attendance, and the evening Community Meeting #2 had close to 100 residents in attendance. The “open forum” format utilized at the evening meeting generated over 40 information cards, and staff and representatives from the Developer, Architect and Parking & Traffic members of the presentation team had the opportunity to speak one on one with many residents about the project. We are in the process of reviewing the cards and will provide a report on these comments in the near future. It is my opinion that this format met its objective of providing significantly more meaningful and inclusive input opportunity for residents than the traditional format of Q&A from those in attendance that results from a queuing up of residents to make their comments at a microphone.

3. Outreach & Marketing

- Crain’s Cleveland Insert – The **June 25 edition of Crain’s** will feature a one page insert from the City. The insert was designed with a Q&A format to highlight the strengths of doing business in Cleveland Heights and the support the City can provide to business looking to invest here. This one page insert is the first in a series of ads we will be running this year and next to help raise the profile of Cleveland Heights as a business-friendly location. A copy of the insert is included in your packet, which the Economic Development staff worked on with and received valuable input and assistance from the Community Relations Department to produce.
- Upcoming events:
 - Doing Business in the Heights (in conjunction with the SBA and SBDC) – **June 28, 9am** at the Cleveland Heights Lee Road Library
 - Historic Tax Credit Workshop (hosted by Heritage Ohio) – **July 9, 4:30pm** at the Cleveland Heights Lee Road Library
- Staff attended/participated in the following meetings:
 - Coventry Village SID
 - Future Heights Annual Meeting

Thank you,

Tim Boland

Economic Development Director

Proposed: 6/18/2018 *(Revised 6-20-18)*

ORDINANCE NO. 77-2018 (F), *First Reading*

By Council Member

An Ordinance implementing Sections 3735.65 through 3735.70 of the Ohio Revised Code, establishing and describing the boundaries of a community reinvestment area in the City of Cleveland Heights, State of Ohio, designating a housing officer to administer the program, and creating a community reinvestment housing council and a tax incentive review council; and declaring an emergency.

WHEREAS, the Council of the City of Cleveland Heights (hereinafter “Council”) desires to pursue all reasonable and legitimate incentive measures to assist and encourage development throughout the City of Cleveland Heights in specific areas that have not enjoyed reinvestment from remodeling or new construction;

WHEREAS, a survey of housing, a copy of which is on file in the City’s Departments of Planning and Development and Economic Development, as required by Ohio Revised Code (“ORC”) Section 3735.66, has been prepared for the area to be included in the proposed Community Reinvestment Area;

WHEREAS, the maintenance of existing and construction of new structures in such area would serve to encourage economic stability, maintain real property values, and generate new employment opportunities;

WHEREAS, the previously enacted legislation establishing eight (8) Community Reinvestment Areas, listed in attached Exhibit C, is hereby terminated and superseded by this ordinance, provided, however, that certain properties and projects listed in Exhibits C.1, C.2, and C.3 shall be governed by the applicable past and current ordinances, as the case may be, until the dates of termination set forth in Exhibits C.1, C.2, and C.3; and

WHEREAS, the remodeling of existing structures or the construction of new structures in this Community Reinvestment Area constitutes a public purpose for which real property exemptions may be granted.

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

SECTION 1. The area designated as the Cleveland Heights Community Reinvestment Area constitutes an area in which housing facilities or structures of historical significance are located, and in which new construction or repair of existing facilities has been discouraged.

SECTION 2. Pursuant to ORC Section 3735.66, the Cleveland Heights Community

RESOLUTION NO. 77-2018 (F), *First Reading*

Reinvestment Area is hereby established in the following described area:

The Community Reinvestment Area shall be located within and bounded by the existing corporation limits of the City of Cleveland Heights.

The Community Reinvestment Area is approximately depicted as the shaded area on the map attached to this Ordinance (see Exhibit A) and by this reference incorporated herein.

Only residential, mixed use, commercial and/or industrial properties consistent with the applicable zoning regulations within the designated Community Reinvestment Area will be eligible for exemptions under this Program. Mixed use development is higher density commercial and/or residential development of a tract of land, building or structure having a variety of complementary and integrated uses such as, but not limited to, residential, office, and retail.

SECTION. 3 All properties identified in Exhibit A as being within the designated Community Reinvestment Area are eligible for this incentive, subject to the combination of project types listed below in Section 4. This proposal is a public/private partnership intended to promote and expand conforming uses in the designated area. As part of the project, the City of Cleveland Heights intends to undertake supporting public improvements in the designated area.

SECTION 4. Within the Community Reinvestment Area, the percentage of the tax exemption on the increase in the assessed valuation resulting from improvements to mixed use, commercial and industrial real property, and the term of those exemptions, shall be negotiated on a case-by-case basis in advance of construction or remodeling occurring according to the rules outlined in the ORC Section 3735.67. The results of the negotiation as approved by this Council will be set in writing in a Community Reinvestment Area Agreement as outlined in ORC Section 3735.671. For residential property, a tax exemption on the increase in the assessed valuation resulting from the improvements as described in ORC Section 3735.67 shall be granted upon application by the property owner and certification thereof by the designated Housing Officer in the following percentage amounts and periods.

The following housing, mixed use, commercial and industrial activities in the Community Reinvestment Area are declared to be a public purpose:

- a. The construction of new single family owner-occupied dwellings containing not more than one housing unit, as described in ORC Section 3735.67, with the term and percentage of the exemption from real property taxation as stated below:

The owner-occupant of any such real property in the Community Reinvestment Area may file an application for exemption from real property tax for a period of five (5) years for twenty-five percent (25%) on the increase in the assessed valuation resulting from the improvements

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for the housing activities as described in ORC Section 3735.67.

If such housing activities are certified through third-party verification of compliance by a certified rater as meeting or exceeding the U.S. Green Building Council's (USGBC) Leadership in Energy and Environmental Design (LEED) "Silver" level category, or substantially equivalent rating system including Enterprise Green Communities, as developed by Enterprise Community Partners, or the National Association of Home Builders National Model Green Home Building Guidelines ("Sustainability Requirement"):

The owner-occupant of any such real property in the Community Reinvestment Area may file an application for exemption from real property tax for a period of ten (10) years for fifty percent (50%) on the increase in the assessed valuation resulting from the improvements for the housing activities as described in ORC Section 3735.67.

If the aforementioned new single family owner-occupied dwelling meets five (5) of the target reinvestment criteria listed in Exhibit B, the owner-occupant of any such real property in the Community Reinvestment Area may file an application for exemption from real property tax for a period of twelve (12) years for seventy-five percent (75%) on the increase in the assessed valuation resulting from the improvements for the housing activities described in ORC Section 3735.67.

If the aforementioned new single family dwelling meets six (6) or more of the target reinvestment criteria listed in Exhibit B, the owner-occupant of any such real property in the Community Reinvestment Area may file an application for exemption from real property tax for a period of fifteen (15) years for one hundred percent (100%) on the increase in the assessed valuation resulting from the improvements for the housing activities described in ORC Section 3735.67.

- b. The construction of new two family dwellings containing not more than two housing unit, as described in ORC Section 3735.67, with the term and percentage of the exemption from real property taxation as stated below:

The owner of any such real property in the Community Reinvestment Area may file an application for exemption from real property tax for a period of five (5) years for twenty-five percent (25%) on the increase in the assessed valuation resulting from the improvements for the housing activities as described in ORC Section 3735.67.

If such housing activities are certified through third-party verification of compliance by a certified rater as meeting or exceeding the U.S. Green Building Council's (USGBC) Leadership in Energy and Environmental Design (LEED) "Silver" level category or substantially equivalent rating system including Enterprise Green Communities, as developed

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by Enterprise Community Partners, or the National Association of Home Builders National Model Green Home Building Guidelines (“Sustainability Requirement”), the owner-occupant of any such real property in the Community Reinvestment Area may file an application for exemption from real property tax for a period of ten (10) years for fifty percent (50%) on the increase in the assessed valuation resulting from the improvements for the housing activities as described in ORC Section 3735.67.

If the aforementioned Sustainability Requirement Certified new two-family dwelling meets five (5) of the target reinvestment criteria listed in Exhibit B, the owner of any such real property in the Community Reinvestment Area may file an application for exemption from real property tax for a period of twelve (12) years for seventy-five percent (75%) on the increase in the assessed valuation resulting from the improvements for the housing activities described in ORC Section 3735.67.

If the aforementioned Sustainability Requirement Certified new two-family dwelling meets six (6) or more of the target reinvestment criteria listed in Exhibit B, the owner of any such real property in the Community Reinvestment Area may file an application for exemption from real property tax for a period of fifteen (15) years for one hundred percent (100%) on the increase in the assessed valuation resulting from the improvements for the housing activities described in ORC Section 3735.67.

- c. The construction of dwelling units consisting of new fee simple owner-occupied townhome or condominium structures, as described in ORC Section 3735.67, with the term and percentage of the exemption from real property taxation as stated below:

The fee simple owner of any such real property in the Community Reinvestment Area may file an application for exemption from real property tax for a period of five (5) years for twenty-five percent (25%) on the increase in the assessed valuation resulting from the improvements for the housing activities described in ORC Section 3735.67.

If such housing activities are certified through third-party verification of compliance by a certified rater as meeting or exceeding the U.S. Green Building Council’s (USGBC) Leadership in Energy and Environmental Design (LEED) “Silver” level category or substantially equivalent rating system including Enterprise Green Communities, as developed by Enterprise Community Partners, or the National Association of Home Builders National Model Green Home Building Guidelines (“Sustainability Requirement”):

The fee simple owner of any such real property in the Community Reinvestment Area may file an application for exemption from real property tax for a period of seven (7) years for sixty-five percent (65%) on the increase in the assessed valuation resulting from the improvements for the housing activities described in ORC Section 3735.67.

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The fee simple owner of any such **owner-occupied** real property in the Community Reinvestment Area having a per unit investment of no less than \$400,000 **for each unit, and a development plan that upon completion constitutes an investment of no less than \$1,600,000,** may file an application for exemption from real property tax for a period of **ten fifteen (10 15)** years for one hundred percent (100%) on the increase in the assessed valuation resulting from the improvements for the housing activities described in ORC Section 3735.67.

The fee simple owner of any such owner-occupied real property in the Community Reinvestment Area meeting five (5) of the target reinvestment criteria listed in Exhibit B, and having a per unit investment of no less than \$335,000 for each unit, may file an application for exemption from real property tax for a period of ten (15) years for one hundred percent (100%) on the increase in the assessed valuation resulting from the improvements for the housing activities described in ORC Section 3735.67.

The fee simple owner of any such owner-occupied real property in the Community Reinvestment Area meeting six (6) or more of the target reinvestment criteria listed in Exhibit B, and having a per unit investment of no less than \$270,000 for each unit, may file an application for exemption from real property tax for a period of ten (15) years for one hundred percent (100%) on the increase in the assessed valuation resulting from the improvements for the housing activities described in ORC Section 3735.67.

The fee simple owner of any such real property in the Community Reinvestment Area having a per unit investment of no less than \$400,000 and a development plan that upon completion constitutes an investment of no less than \$4,000,000, may file an application for exemption from real property tax for a period of fifteen (15) years for one hundred percent (100%) on the increase in the assessed valuation resulting from the improvements for the housing activities described in ORC Section 3735.67.

- d. The construction of new multiple-family building dwelling units having three (3) or more units as described in ORC Section 3735.67, with the term and percentage of the exemption from real property taxation as stated below, with such housing activities required to be certified through third-party verification of compliance by a certified rater as meeting or exceeding the U.S. Green Building Council's (USGBC) Leadership in Energy and Environmental Design (LEED) "Silver" level category or substantially equivalent rating system including Enterprise Green Communities, as developed by Enterprise Community Partners, or the National Association of Home Builders National Model Green Home Building Guidelines ("Sustainability Requirement"):

The owner of any such real property in the Community Reinvestment Area, having a minimum investment level of \$75,000 per unit or costs greater than \$1,500,000 for the total

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residential portion of the project, may file an application for exemption from real property tax for a period of seven (7) years for fifty percent (50%) on the increase in the assessed valuation resulting from the improvements for the housing activities described in ORC Section 3735.67.

The owner of any such real property in the Community Reinvestment Area that is part of a development project that upon completion constitutes an investment of no less than \$3,000,000 per development project may file an application for exemption from real property tax for a period of ten (10) years for one hundred percent (100%) on the increase in the assessed valuation resulting from the improvements for the housing activities described in ORC Section 3735.67.

- e. The construction of new mixed use, commercial and/or industrial real property shall be eligible for a tax exemption up to and including one hundred percent (100%) and the term of those exemptions being up to fifteen (15) years on the increase in the assessed valuation resulting from the improvements, shall be negotiated on a case-by-case basis in advance of construction occurring according to the rules outlined in the ORC Section 3765.67. The results of the negotiation as approved by this Council will be set in writing in a Community Reinvestment Area Agreement as outlined in ORC Section 3735.671. Such activities must be as a result of a development plan that upon completion constitutes an investment of no less than \$3,000,000. Such activities shall be required to be certified through third-party verification of compliance by a certified rater as meeting or exceeding the U.S. Green Building Council's (USGBC) Leadership in Energy and Environmental Design (LEED) "Silver" level category or substantially equivalent rating system including Enterprise Green Communities, as developed by Enterprise Community Partners, or the National Association of Home Builders National Model Green Home Building Guidelines ("Sustainability Requirement").
- f. Remodeling construction activities resulting in the remodeling of existing single family owner-occupied dwellings containing not more than one housing unit, as described in ORC Section 3735.67, where the per unit cost of the improvements is at least \$10,000, the term and percentage of the exemption from real property taxation resulting from such remodeling activities shall be as stated below:

The owner-occupant of any such real property in the Community Reinvestment Area may file an application for exemption from real property tax for a period of seven (7) years for fifty percent (50%) on the increase in the assessed valuation resulting from the improvements for the housing activities described in ORC Section 3735.67.

If the aforementioned existing single family dwelling meets five (5) of the target reinvestment criteria listed in Exhibit B, the owner-occupant of any such real property in the

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Community Reinvestment Area may file an application for exemption from real property tax for a period of ten (10) years for seventy-five percent (75%) on the increase in the assessed valuation resulting from the improvements for the housing activities described in ORC Section 3735.67.

If the aforementioned existing single family dwelling meets six (6) or more of the target reinvestment criteria listed in Exhibit B, the owner-occupant of any such real property in the Community Reinvestment Area may file an application for exemption from real property tax for a period of twelve (12) years for one hundred percent (100%) on the increase in the assessed valuation resulting from the improvements for the housing activities described in ORC Section 3735.67.

- g. Remodeling construction activities resulting in the remodeling of existing two-family dwellings containing not more than two housing units, as described in ORC Section 3735.67, where the per unit cost of the improvements is at least \$10,000, the term and percentage of the exemption from real property taxation resulting from such remodeling activities shall be as stated below:

The owner of any such real property in the Community Reinvestment Area may file an application for exemption from real property tax for a period of seven (7) years for fifty percent (50%) on the increase in the assessed valuation resulting from the improvements for the housing activities described in ORC Section 3735.67.

If the aforementioned existing two-family dwelling meets five (5) of the target reinvestment criteria listed in Exhibit B, the owner of any such real property in the Community Reinvestment Area may file an application for exemption from real property tax for a period of ten (10) years for seventy-five percent (75%) on the increase in the assessed valuation resulting from the improvements for the housing activities described in ORC Section 3735.67.

If the aforementioned existing two-family dwelling meets six (6) or more of the target reinvestment criteria listed in Exhibit B, the owner of any such real property in the Community Reinvestment Area may file an application for exemption from real property tax for a period of twelve (12) years for one hundred percent (100%) on the increase in the assessed valuation resulting from the improvements for the housing activities described in ORC Section 3735.67.

- h. Remodeling construction activities, as described in ORC Section 3735.67, resulting in the conversion of existing two-family dwelling unit structures to owner-occupied single family dwelling units or attached single family dwelling units, or owner-occupied condominiums, or renovation construction activities resulting in the conversion of existing two-family dwelling

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unit structures to owner-occupied condominiums, where the cost of the improvements is at least \$25,000 may file an application for exemption from real property tax for a period of twelve (12) years for one hundred percent (100%) on the increase in the assessed valuation resulting from the improvements for the housing activities described in ORC Section 3735.67.

- i. Remodeling construction activities, as described in ORC Section 3735.67, resulting in the rehabilitation of an owner-occupied single or a two-family building, and/or a multiple-family building residential dwelling units in a contributing building in any National Register Historic District or is a locally designated historic landmark located within the City of Cleveland Heights that follows the Secretary of the Interior's Standards for Rehabilitation; and that has a minimum investment of ~~\$500,000~~ \$10,000 in rehabilitation costs; the owner of such property may file a real property tax exemption application for a period of ten (10) years for one hundred percent (100%) on the increase in the assessed valuation resulting from the improvements for the housing activities described in ORC Section 3735.67.
- j. Remodeling construction activities, as described in ORC Section 3735.67, resulting in the remodeling of multi-family building dwelling units having three (3) or more units, with the term and percentage of the exemption from real property taxation as stated below:

The owner of any such real property in the Community Reinvestment Area, having a minimum investment level of \$25,000 per unit or costs greater than \$500,000 for the total residential portion of the project, may file an application for exemption from real property tax for a period of seven (7) years for fifty percent (50%) on the increase in the assessed valuation resulting from the improvements for the housing activities described in ORC Section 3735.67.

The owner of any such real property in the Community Reinvestment Area that is part of a development project that upon completion constitutes an investment of no less than \$1,000,000 per development project may file an application for exemption from real property tax for a period of ten (10) years for one hundred percent (100%) on the increase in the assessed valuation resulting from the improvements for the housing activities described in ORC Section 3735.67.

- k. Remodeling construction activities to existing mixed use, commercial and/or industrial real property shall be eligible for a tax exemption up to twelve (12) years and up to and including one hundred percent (100%) on the increase in the assessed valuation resulting from the improvements for the activities described in ORC Section 3735.67, and shall be negotiated on a case-by-case basis in advance of construction occurring according to the rules outlined in the ORC Section 3735.67. The results of the negotiation as approved by this Council will be set in writing in a Community Reinvestment Area Agreement as outlined in ORC Section

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3735.671. Such activities must be as a result of a development plan that upon completion constitutes an investment of no less than ~~\$1,500,000~~ **\$250,000**.

For the purposes of the above described Community Reinvestment Area, structures exclusively used for residential purposes and composed of one (1) or more units shall be classified as residential structures.

If remodeling qualifies for an exemption, during the period of the exemption, the exempted percentage of the dollar amount of the increase in market value of the structure shall be exempt from real property taxation. If new construction qualifies for an exemption, during the period of the exemption the exempted percentage of the structure shall not be considered to be an improvement on the land on which it is located for the purpose of real property taxation.

To be eligible for a tax exemption within this Community Reinvestment Area, the construction activities stated above shall not demolish or intentionally physically destroy the architectural character and distinguishing features of any contributing building or structure located in an established National Register Historic District, or is a locally designated historic landmark as identified in Exhibit B Map B-V. However, if said building or structure so designated is determined by the City to have reached a condition rendering the building uninhabitable or unusable, said building or structure could be demolished and the new construction improvements would be eligible for tax abatement as described in this Section.

SECTION 5. All commercial and industrial projects are required to comply with the state application fee requirements of ORC Section 3735.672 (C) and the local annual monitoring fee of one percent of the amount of taxes exempted under the agreement - a minimum of \$500 up to a maximum of \$2500 annually unless waived.

SECTION 6. To administer and implement the provisions of this Ordinance, the City's Economic Development Director is designated as the Housing Officer as described in Sections 3735.65 through 3735.70.

SECTION 7. ORC Section 3735.69 states that a "Community Reinvestment Area Housing Council" shall be created, and the City of Cleveland Heights has previously created said Housing Council which will continue to serve as the Housing Council for this Community Reinvestment Area, consisting of two members appointed by the Mayor of the City of Cleveland Heights, two members appointed by the Council of the City of Cleveland Heights, and one member appointed by the Planning Commission of the City of Cleveland Heights. The majority of the members shall then appoint two additional members who shall be residents within the area. Terms of the members of the Housing Council shall be for three years. An unexpired term resulting from a vacancy in the Housing Council shall be filled in the same manner as the initial appointment was made. The Community Reinvestment Area Housing Council shall make an annual inspection of the properties

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within the district for which an exemption has been granted under Section 3735.67 of the ORC. The Housing Council shall also hear appeals under Section 3735.70 of the ORC.

A Tax Incentive Review Council shall be established pursuant to ORC Section 5709.85, and the City of Cleveland Heights has previously established said Tax Incentive Review Council which will continue to serve as the Tax Incentive Review Council for this Community Reinvestment Area, and shall consist of three representatives appointed by the Cuyahoga County Executive with the concurrence of County Council, two representatives of the municipal corporation, appointed by the Municipal CEO with City Council concurrence, the county auditor or designee and a representative of each affected Board of Education. At least two members must be residents of the City of Cleveland Heights. The Tax Incentive Review Council shall review annually the compliance of all agreements involving the granting of exemptions for commercial or industrial real property improvements under Section 3735.671, of the ORC and make written recommendations to City Council as to continuing, modifying or terminating said agreement based upon the performance of the agreement.

SECTION 8. The Council reserves the right to re-evaluate the designation of the Cleveland Heights Community Reinvestment Area after December 31, 2019 and annually thereafter, at which time the Council may direct the Housing Officer not to accept any new applications for exemptions as described in Section 3735.67 of the ORC. **Furthermore, the Cleveland Heights Community Reinvestment Area program shall be reviewed by City Council at least once every five (5) years to evaluate the results and overall performance of the program.**

SECTION 9. The Community Reinvestment Area Housing Council shall make an annual inspection of the properties within the district for which an exemption has been granted under Section 3735.67 of the ORC. The Housing Council shall also hear appeals under 3735.70, of the ORC.

SECTION 10. Under ORC Section 3735.68, the City, upon receiving a recommendation from the Tax Incentive Review Council, may terminate the tax exemption after the first year if the Housing Officer finds that the property is not being properly maintained or repaired due to the neglect of the owner; and once terminated shall not reinstate the tax exemption. The Housing Officer shall include this requirement on the application for tax exemption signed by the applicant.

SECTION 11. The City, upon receiving a recommendation from the Tax Incentive Review Council, may terminate the tax exemption after the first year if the Housing Officer finds that the property taxes have become delinquent; and once terminated the City shall not reinstate the tax exemption. The Housing Officer shall include this requirement on the application for tax exemption signed by the applicant.

SECTION 12. The previously enacted legislation establishing eight (8) Community

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Reinvestment Areas, listed in attached Exhibit C, is hereby terminated and superseded by this ordinance, provided, however, that properties and projects listed in Exhibits C.1, C.2, and C.3 shall be governed by the applicable past and current ordinances, as the case may be, until the date of termination set forth in Exhibits C.1, C.2, and C.3, respectively.

SECTION 13. The Council hereby finds and determines that all formal actions relative to the passage of this Ordinance were taken in an open meeting of this Council, that all deliberations of this Council and of its committees, if any, which resulted in formal action were taken in meetings open to the public, in full compliance with the applicable legal requirements, including Section 121.22 of the ORC.

SECTION 14. The City Manager of the City of Cleveland Heights is hereby directed and authorized to petition the Director of the Ohio Development Services Agency for approval and confirmation of the findings contained within this Ordinance.

SECTION 15. This Ordinance shall take effect and be in force from and after the earliest period allowed by law and upon approval and confirmation by the Director of the Ohio Development Services Agency of the findings of this Ordinance.

SECTION 16. Notice of the passage of this Ordinance shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 17. This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need to implement said agreement as soon as possible. Wherefore, provided it receives the affirmative vote of five (5) or more of the members elected or appointed to this Council, this Ordinance shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

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CAROL ANN ROE, Mayor
President of the Council

LAURIE SABIN
Clerk of Council

PASSED:

Exhibit A

Map of

Cleveland Heights Community Reinvestment Area

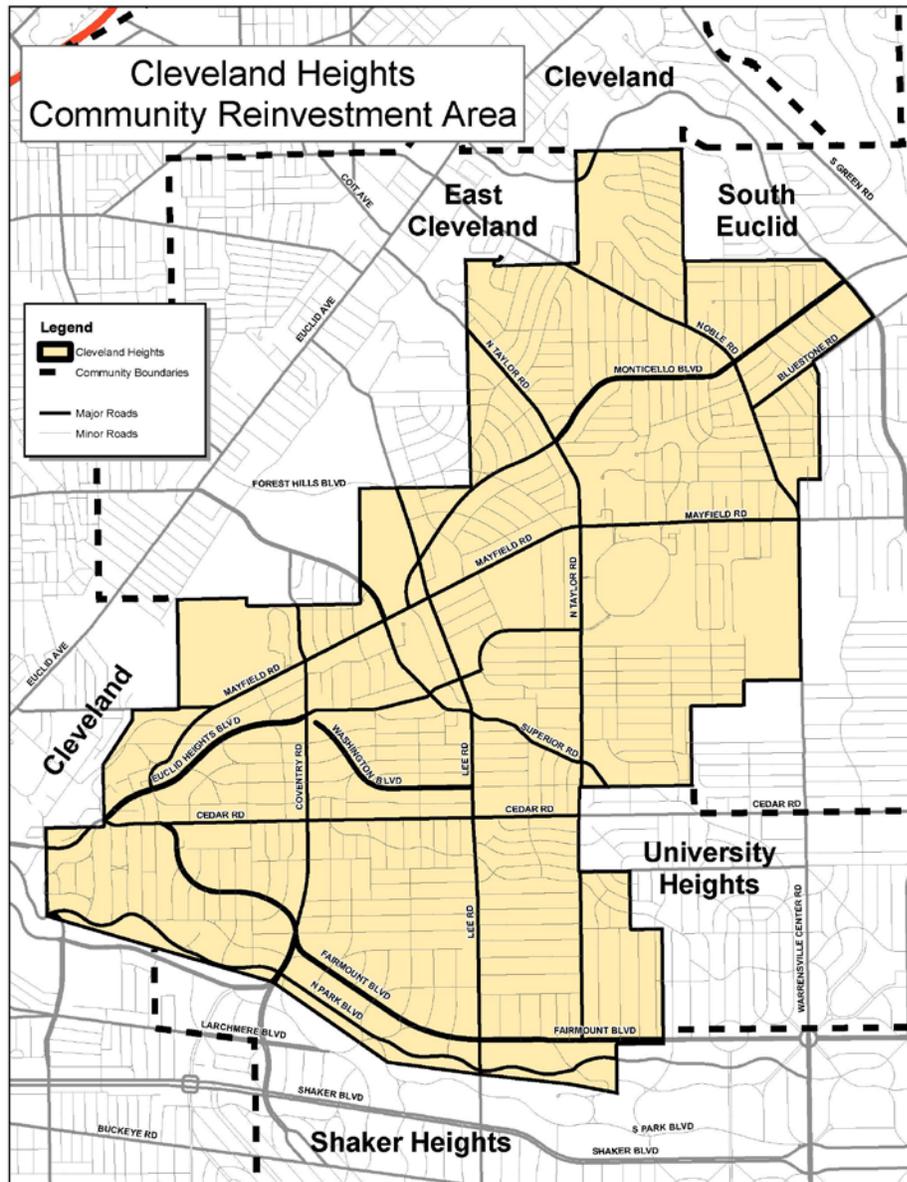
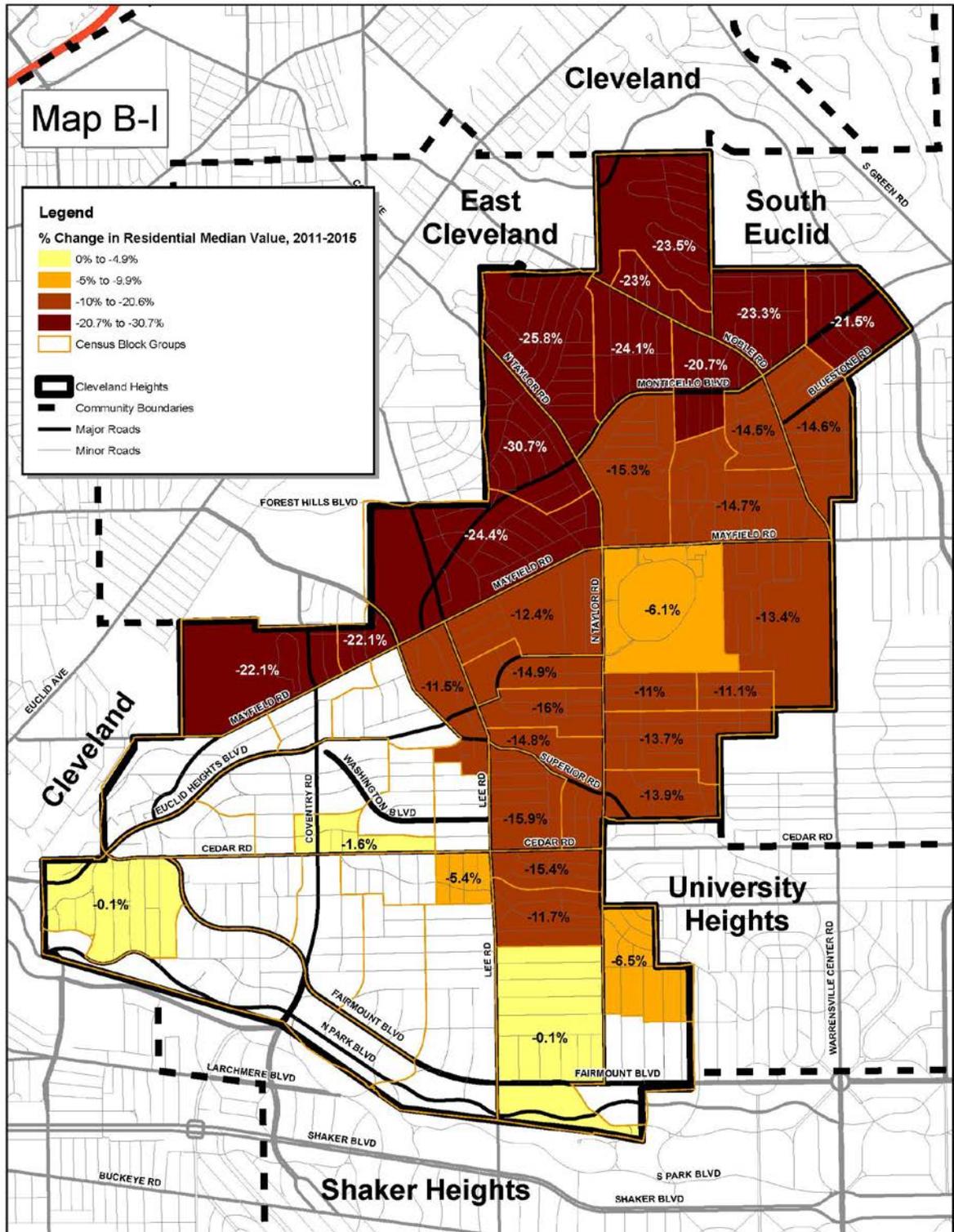


Exhibit B

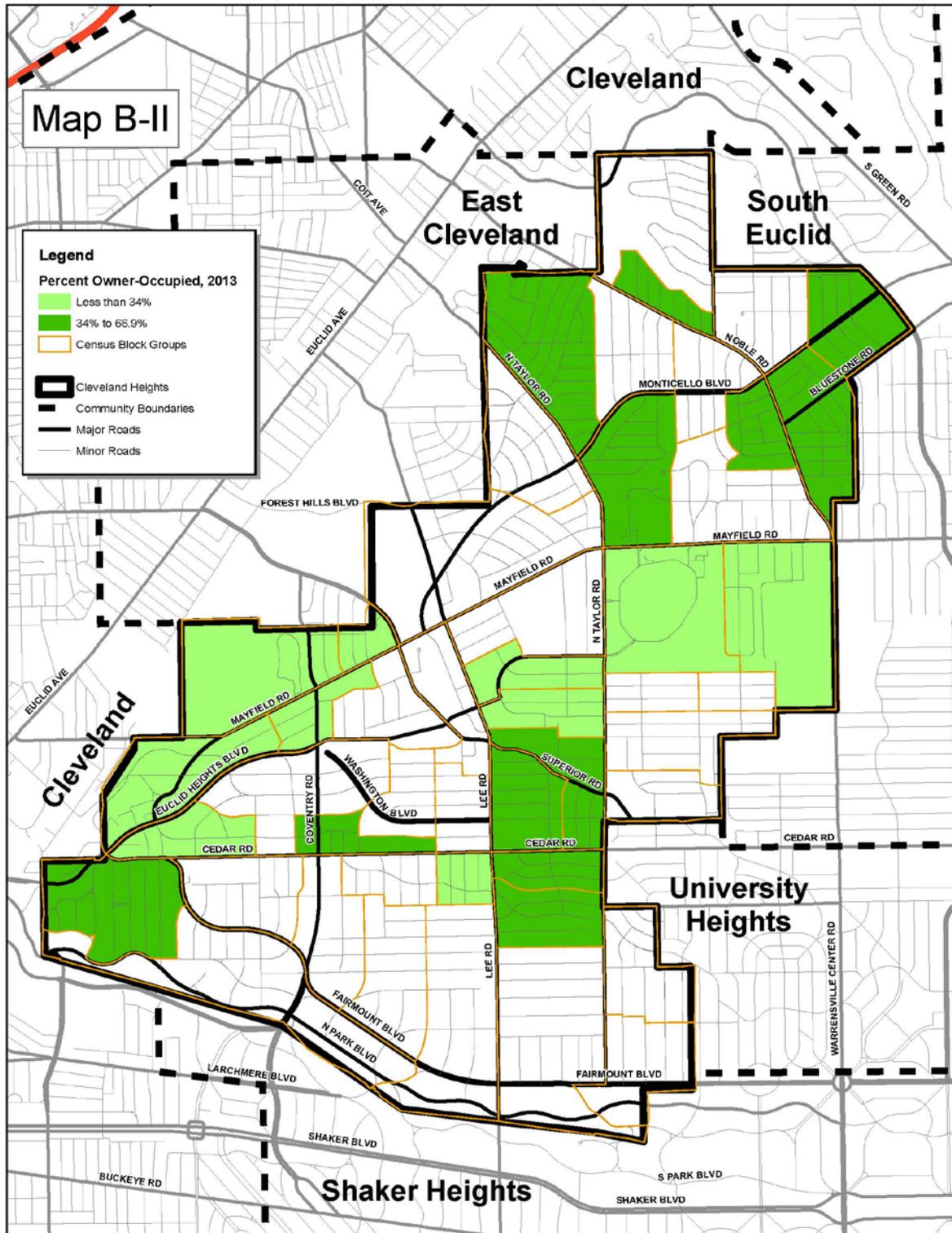
Target Reinvestment Criteria

- I. Declining property values – (refer to Map B-I);
- II. Less than 66.9% owner occupancy rates – (refer to Map B-II);
- III. Median housing value rates less than \$152,100 (refer to Map B-III);
- IV. High residential vacancy rates – rates equal to or exceeding 7.2 % (refer to Map B-IV);
- V. Designated National Register of Historic Places District (refer to Map B-V);
- VI. Designated neighborhood redevelopment areas, having high concentrations of City-owned vacant properties resulting from Neighborhood Stabilization Program demolitions. These areas include the following neighborhoods:
 - The Altamont / Desota / Berkley Neighborhood (refer to Map B-VI);
 - The North Coventry Neighborhood (refer to Map B-VI);
 - The North Taylor / Noble / Rushleigh / Monticello Neighborhood (refer to Map B-VI);
- VII. Median Household Income – (refer to Map B-VII);
- VIII. CDBG Eligible Areas – (refer to Map B-VIII);
- IX. Commercial Vacancy Rate – (refer to Map B-IX);
- X. Strength of Housing Market – (refer to Map B-X).

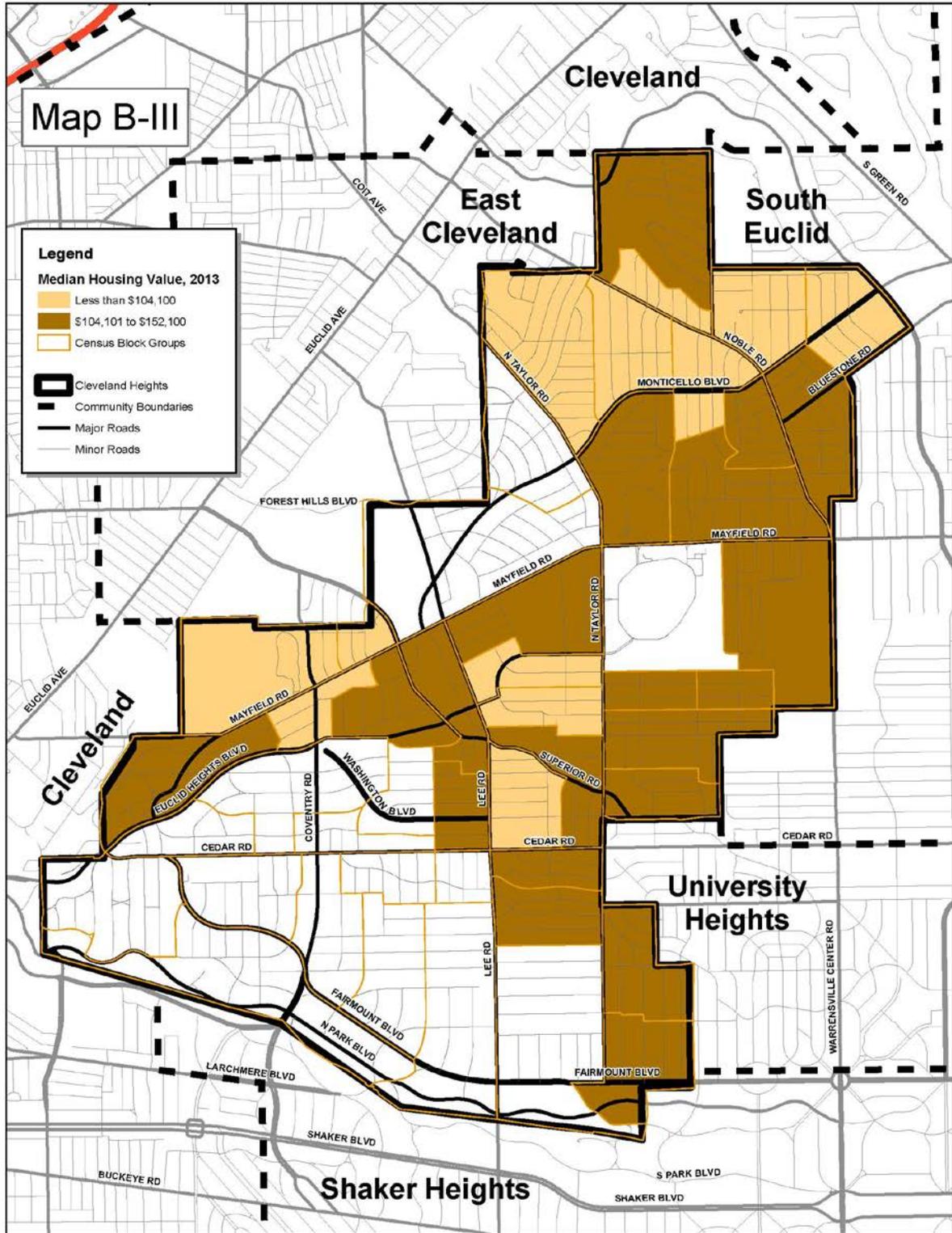
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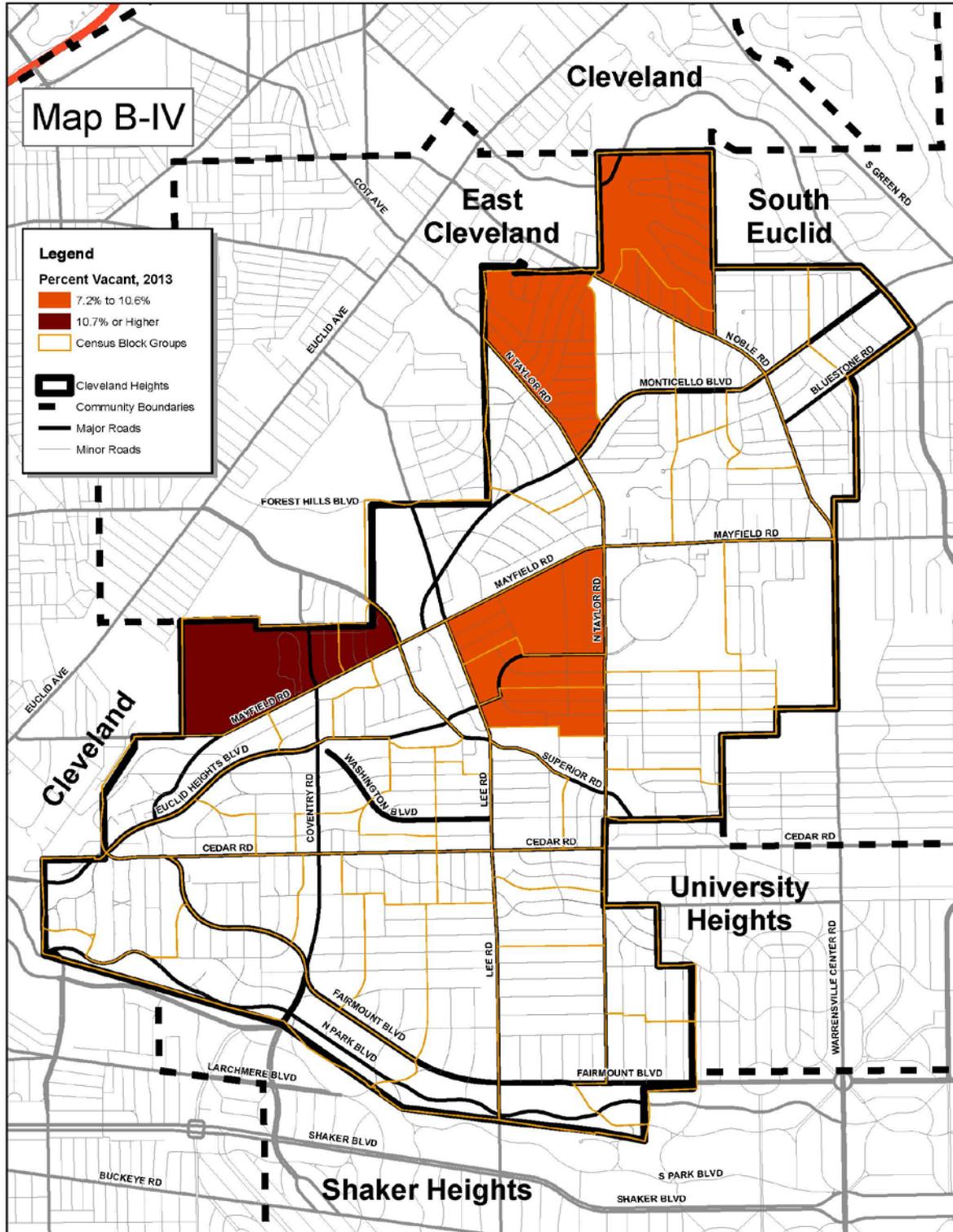
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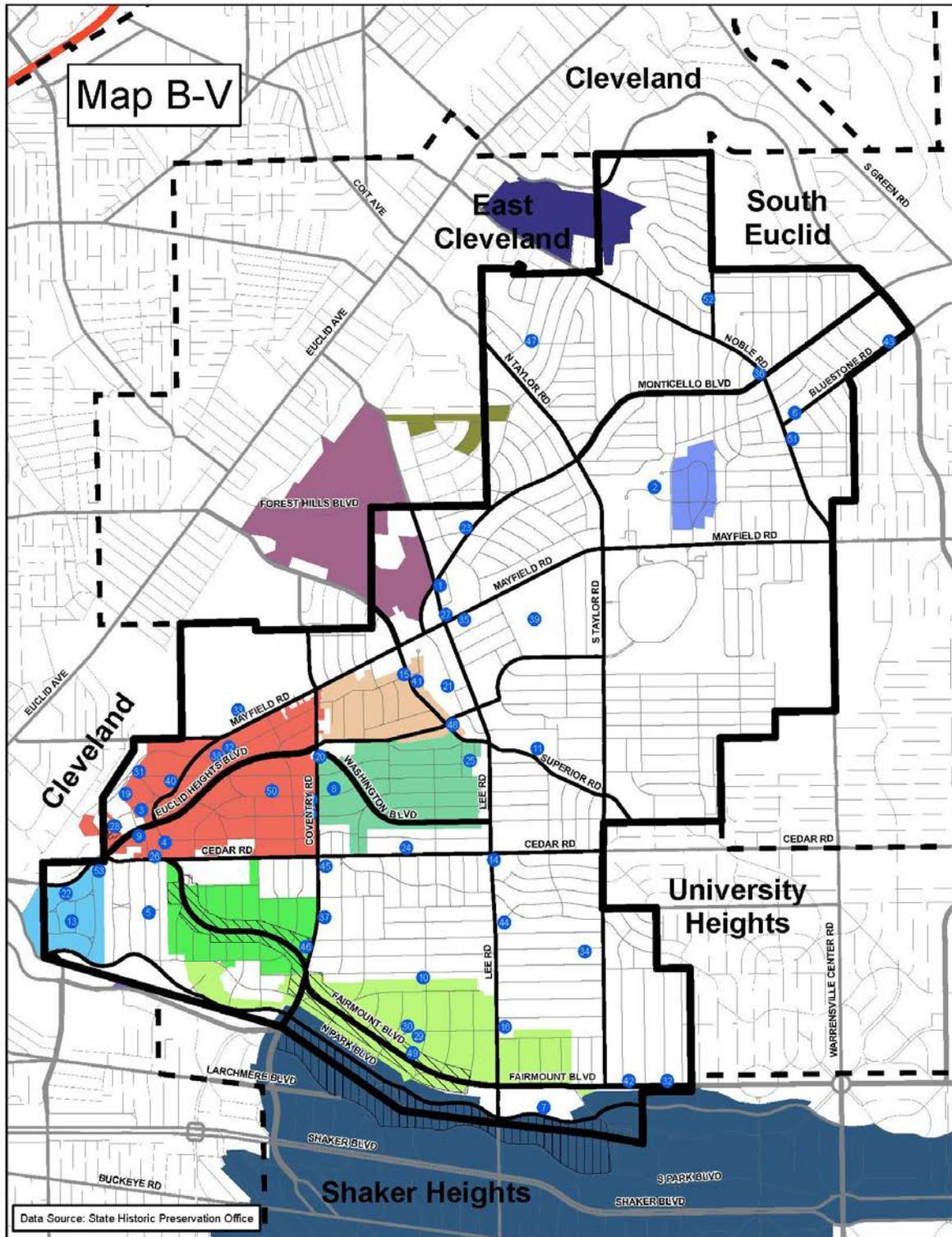


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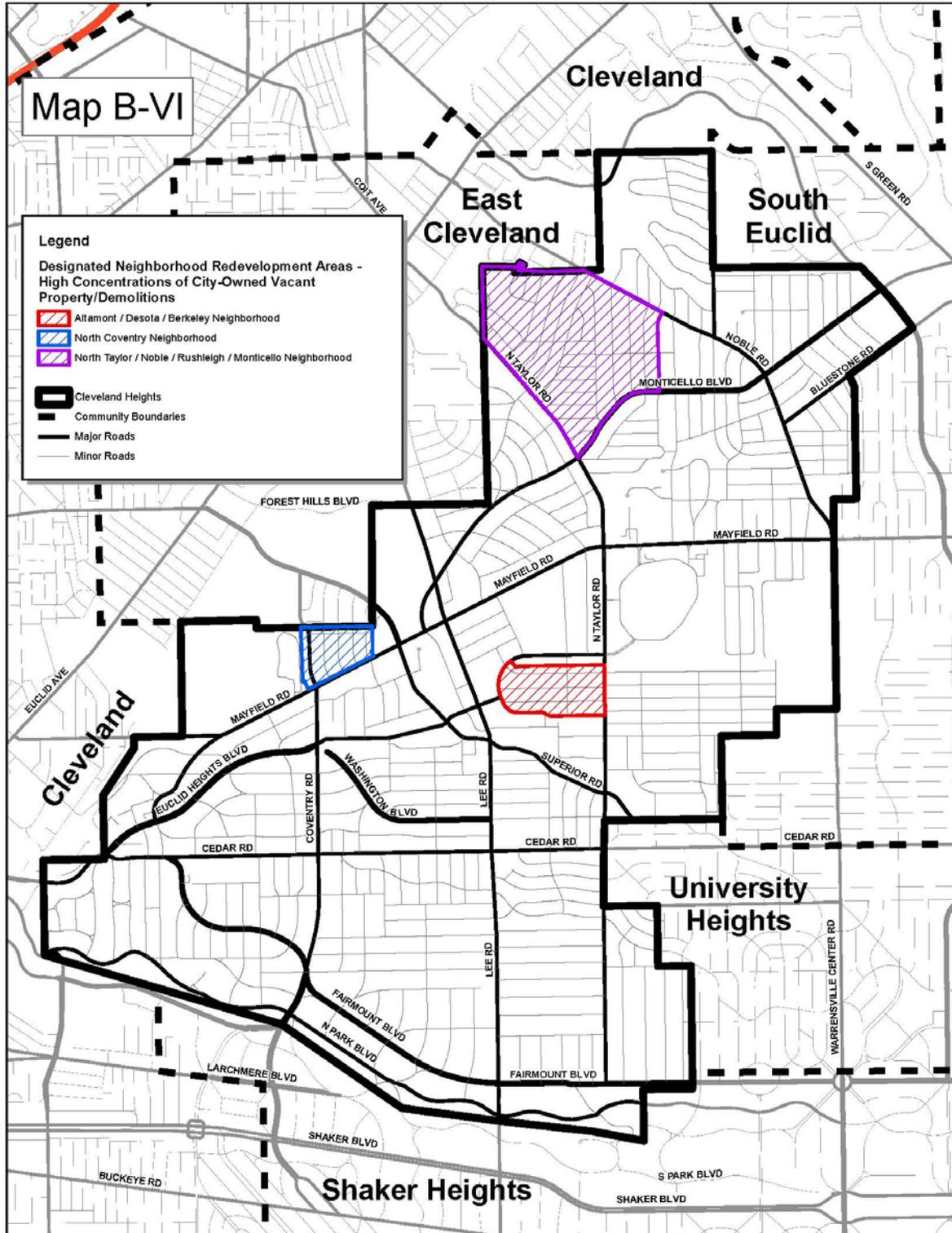


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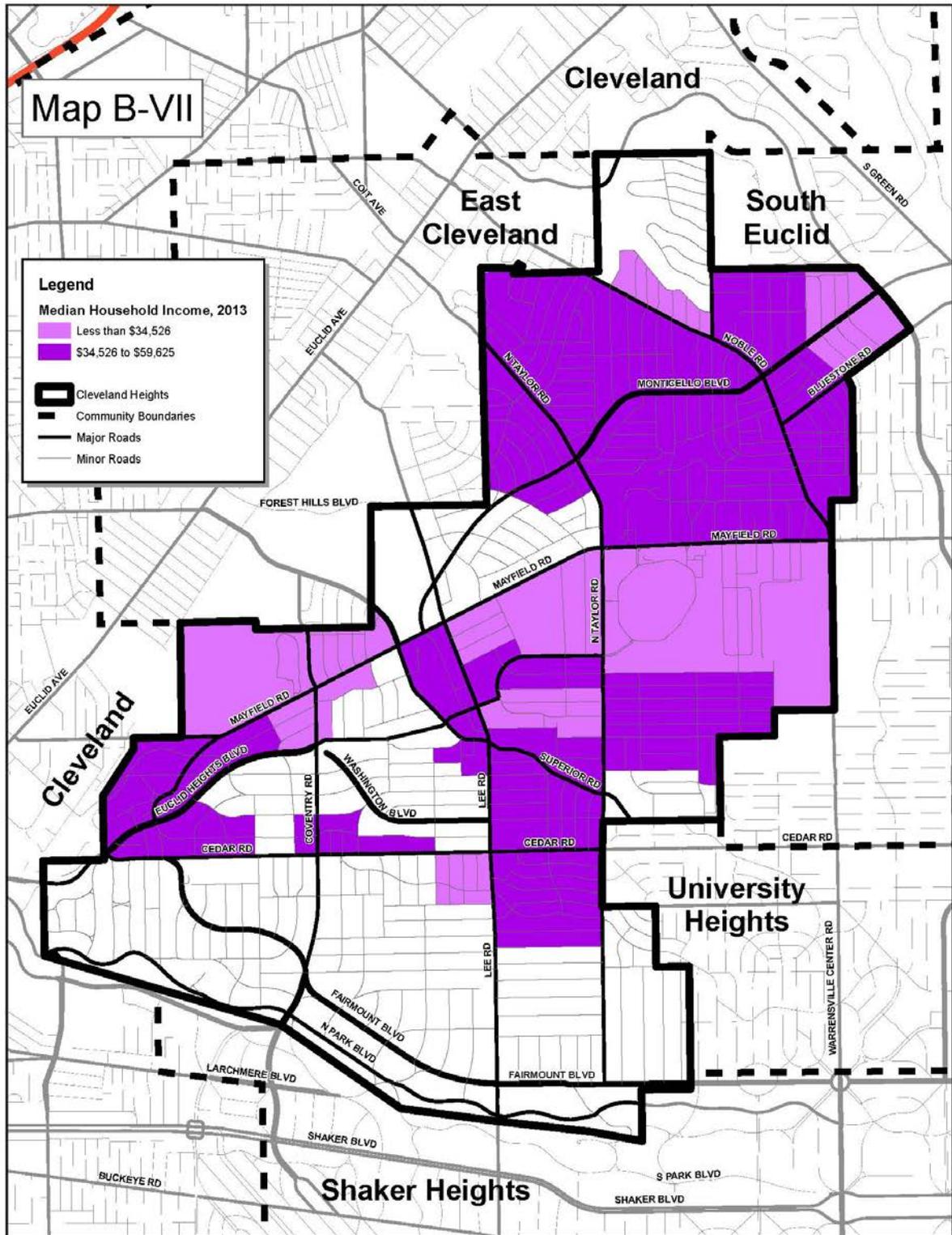
Cleveland Heights Landmarks		
1 Abeyton Realty Corporation Forest Hill Real Estate Office	16 Clapp-Curran Estate (Gardener's Cottage)	36 Noble Road Fire Station
2 Adams House	17 The College Club	37 Nutt House & Carriage House
3 Adella Prentiss Hughes House	18 Coventry Library	38 Overlook Place Condominiums
4 Alcazar Hotel	19 Cumberland Park	39 Park Synagogue
5 Alfred E. & Flora Cook House	20 Elizabeth Keyes Churchill House	40 Patrick Calhoun House
6 Asa Cady House	21 Finneburgh House	41 Preyer House
7 Beaumont School/Painter Estate	22 Grace Lutheran Church	42 Richard Penty House
8 Bramson House	23 Grant W. Deming House	43 Schroeder House
9 Braverman-Brantley Building	24 Heights Center Building	44 Slsby Road Fire Station
10 Burdick House	25 Heights Rockefeller Building	45 St. Ann Church Group/Communion of Saints Parish
11 Cain Park	26 Herrick Mews	46 St. Paul's Church
12 Campbell-Euclid Heights Realty House	27 James C. Beardslee & Cornelia Wadhams Beardslee House	47 Start Right Church of God in Christ
13 Canfield House	28 Jeavons House	48 Superior Schoolhouse
14 Cedar-Lee Theatre Building	29 John Hartness Brown House	49 Tremaine-Gallagher House
15 Christ Our Redeemer A.M.E. Church	30 John Hecker House	50 Warner-Racca House and Carriage House
16 Church of the Saviour	31 Lake View Cemetery	51 Willard Wight House
17 Clapp-Curran Estate	32 Lanphear-Callander Sears House	52 William Quilliam House
	33 New Spirit Revival Center	53 Zerbe-Halle House

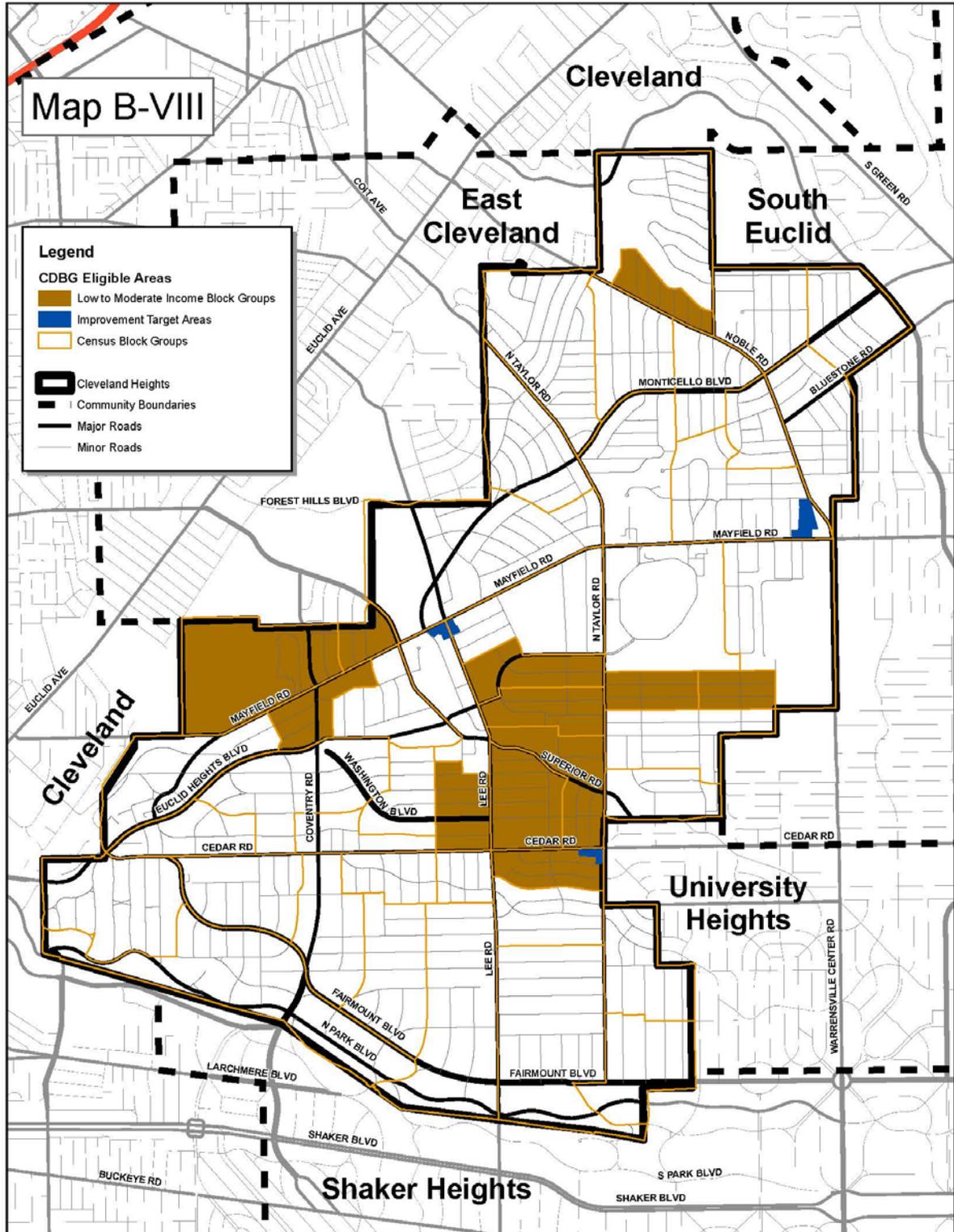
Designated National Register of Historic Places Districts	
	Ambler Heights Historic District
	Euclid Golf Historic District
	Euclid Heights Historic District
	Fairhill Road Village Historic District
	Fairmount Boulevard District
	Forest Hill Historic District
	Forest Hill Park
	Grant Deming's Forest Hill Allotment Historic District
	Inglewood Historic District
	Mayfield Heights Historic District
	Nela Park Historic District
	North Union Shaker Site
	Overlook Road Carriage House District
	Shaker Farm Historic District
	Shaker Village Historic District
	Cleveland Heights
	Community Boundaries
	Major Roads
	Minor Roads

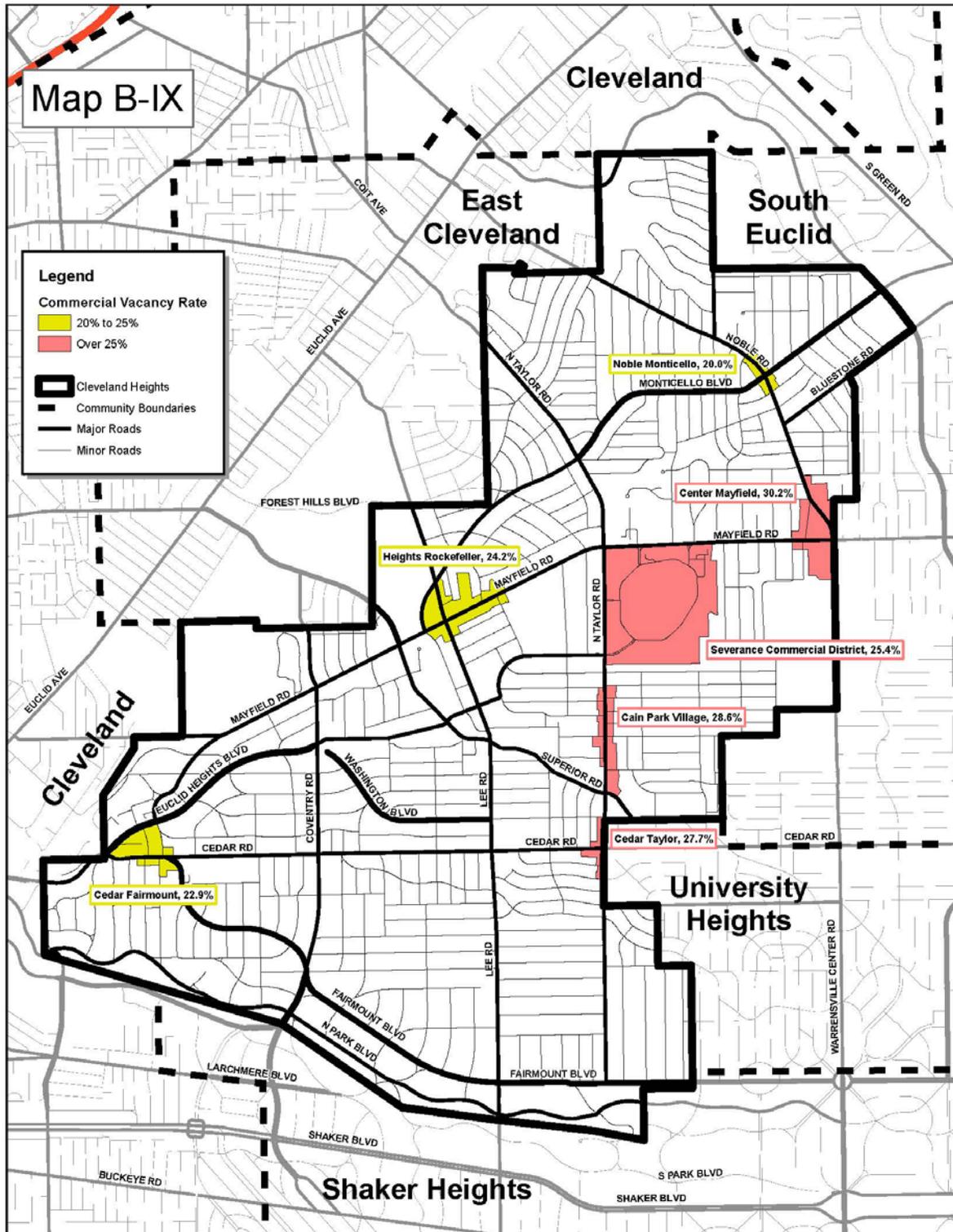
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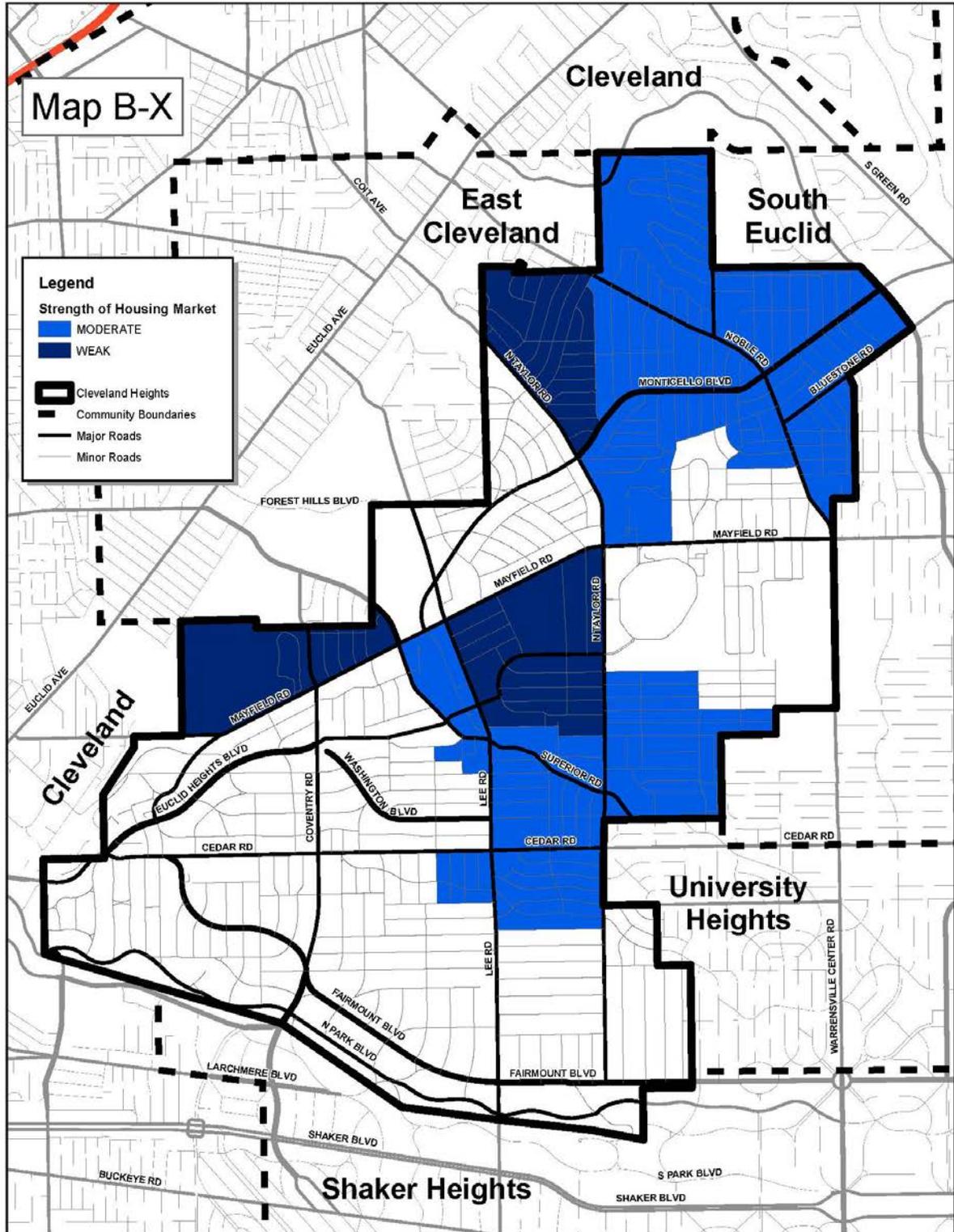
RESOLUTION NO. 77-2018 (F), *First Reading*







RESOLUTION NO. 77-2018 (F), *First Reading*



RESOLUTION NO. 77-2018 (F), *First Reading*

Exhibit C:					
Cleveland Heights Community Reinvestment Areas (CRA)					
	CRA Name & Projects	CRA Number	CH Ordinance	Date	Termination Date
1	<u>CAIN PARK</u>	035-16014-04	98-2003	23-Jun-03	Terminated upon effective date of Ord No. XX-2018
2	<u>EAST DERBYSHIRE</u>	035-16014-06	34-2008	7-Apr-08	Terminated upon effective date of Ord No. XX-2018
3	<u>VILLA CARABELLI</u>	035-16014-01	52-2001	16-Apr-01	Terminated upon effective date of Ord No. XX-2018
4	<u>LEE/EUCLID HEIGHTS</u>	035-16014-03	145-2002 amended 98-2008	5-Aug-02 7-Jul-08	Terminated upon effective date of Ord No. XX-2018
5	<u>MEADOWBROOK LEE</u>	035-16014-05	153-2003 amended 183-2003	07-Oct-03 15-Dec-03	Terminated upon effective date of Ord No. XX-2018
6	<u>KENSINGTON</u> -	NOT ACTIVE	109-1988	5-Dec-88	Terminated upon effective date of Ord No. XX-2018
7	<u>SEVERANCE</u> Severance Place Bluestone	035-16014-02	74-2002 13-2005 165-2005 183-2001 97-2008 22-2017	6-May-02 18-Jan-05 19-Dec-05 5-Nov-01 7-Jul-08 3/20/2017	Termination upon effective date of Ord No. XX-2018, with exceptions in Exhibit C.1 Termination upon effective date of Ord No. XX-2018, with exceptions in Exhibit C.2
8	<u>Turkey Ridge</u> College Club		8-2014	3-Mar-14	Termination upon effective date of Ord No. XX-2018, with exceptions in Exhibit C.3

EXHIBIT C.1 -- Exceptions to Severance CRA
Each shall terminate as of July 7, 2023

PPN	address	suite
683-25-314	500 Severance Place	207
683-25-337	500 Severance Place	507
683-25-302	500 Severance Place	102
683-25-303	500 Severance Place	103
683-25-305	500 Severance Place	105
683-25-307	500 Severance Place	107
683-25-310	500 Severance Place	203
683-25-311	500 Severance Place	204
683-25-312	500 Severance Place	205
683-25-313	500 Severance Place	206
683-25-317	500 Severance Place	303
683-25-318	500 Severance Place	304
683-25-319	500 Severance Place	305
683-25-320	500 Severance Place	306
683-25-321	500 Severance Place	307
683-25-324	500 Severance Place	402
683-25-325	500 Severance Place	403
683-25-326	500 Severance Place	404
683-25-327	500 Severance Place	405
683-25-328	500 Severance Place	406
683-25-329	500 Severance Place	407
683-25-331	500 Severance Place	501
683-25-332	500 Severance Place	502
683-25-333	500 Severance Place	503
683-25-334	500 Severance Place	504
683-25-335	500 Severance Place	505
683-25-336	500 Severance Place	506
683-25-301	500 Severance Place	101

RESOLUTION NO. 77-2018 (F), *First Reading*

EXHIBIT C.2 - Exceptions to Bluestone CRA
Each shall terminate as of July 7, 2023

PPN	address
681-30-052	1377 Slate Ct
681-30-056	1369 Slate Ct
681-30-060	1361 Slate Ct
681-30-061	1359 Slate Ct
681-30-062	1357 Slate Ct
681-30-063	1355 Slate Ct

RESOLUTION NO. 77-2018 (F), *First Reading*

EXHIBIT C.3 - Exceptions to Turkey Ridge CRA
Each shall terminate as of **July 1, 2025**

PPN	Address Location
685-03-043	College Club - being converted to rental units
685-03-042	site plan shows parcels A, B , C, D, E, F, G, H, I, J, K, L, M and common area N

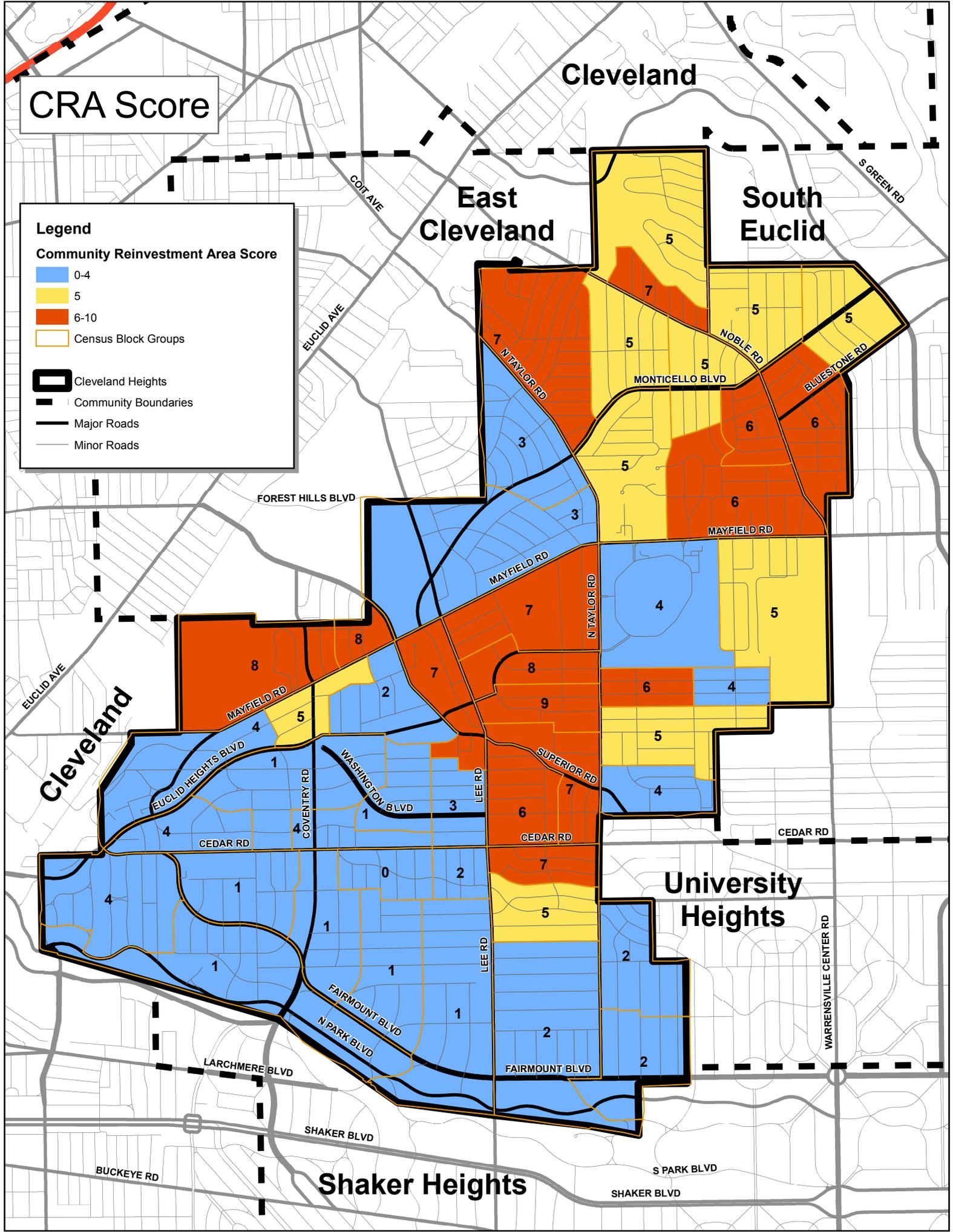
Public Purpose: New Construction	Term	%	Public Purpose: Remodeling of Existing Structures	Term	%
A. New single family residential building construction of owner occupied dwelling units:			F. Remodeling of single family residential buildings of owner occupied dwelling units: (Minimum remodeling cost - \$10,000 per unit)		
> Base level exemption	5	25%	Base level exemption	7	50%
("Sustainability Requirement" Certified - SRC)			Meeting 5 target criteria*	10	75%
> Base level exemption (SRC)	10	50%	Meeting 6 or more target criteria*	12	100%
> Meeting 5 target criteria* (SRC)	12	75%	*Refer to CRA Target Reinvestment Criteria Scoring Map		
> Meeting 6 or more target criteria* (SRC)	15	100%			
*Refer to CRA Target Reinvestment Criteria Scoring Map					
B. New two-family residential building construction of dwelling units:			G. Remodeling of two-family residential buildings of dwelling units: (Minimum cost - \$10,000 per unit)		
> Base level exemption	5	25%	Base level exemption	7	50%
("Sustainability Requirement" Certified - SRC)			Meeting 5 target criteria*	10	75%
> Base level exemption (SRC)	10	50%	Meeting 6 or more target criteria*	12	100%
> Meeting 5 target criteria* (SRC)	12	75%	*Refer to CRA Target Reinvestment Criteria Scoring Map		
> Meeting 6 or more target criteria* (SRC)	15	100%			
			H. Conversion of two-family homes to owner occupied single family homes, or attached SF homes or owner occupied condominiums; Conversion of two-family homes to owner occupied condominiums (Minimum remodeling cost - \$25,000 per unit)		
				12	100%
C. Construction of new residential fee simple, owner- occupied townhome or condominium structures ("Sustainability Requirement" Certified - SRC)			I. Rehabilitation for residential dwelling units in a contributing building in NRHD or locally designated Historic Landmark - Follows SISR - minimum investment of \$10,000 in rehab costs		
Base level exemption	5	25%		10	100%
Base level exemption (SRC)	7	65%			
\$400,000 per unit minimum investment (SRC)	15	100%			
\$330,000 min. Invest. / (SRC) / 5 target criteria	15	100%			
\$270,000 min. invest. / (SRC) / 6 or > target criteria	15	100%			
D. Construction of new residential multi-family dwelling units ("Sustainability Requirement" Certified - SRC)			J. Remodeling construction activities to residential Multi-Family dwelling units		
Min. \$75,000 per unit or \$1,500,000 project cost (SRC)	7	50%	Minimum \$25,000 per unit or \$500,000 project costs	7	50%
Minimum Project investment of \$3,000,000 (SRC)	10	100%	Minimum Project investment of \$1,000,000	10	100%
E. Construction of new mixed use, commercial, or industrial real property ("Sustainability Requirement" Certified - SRC) Minimum project investment of \$3,000,000 (Exemption Guidelines to be developed) ** School District Participation			K. Renovation construction activities to mixed use, commercial, or industrial real property Minimum Project investment of \$250,000 (Exemption Guidelines to be developed) ** School District Participation		
	Up to 15 years	Up to 100%		Up to 12 years	Up to 100%
	Negotiated**	Negotiated**		Negotiated**	Negotiated**
	case-by-case basis	case-by-case basis		case-by-case basis	case-by-case basis

CRA Score

Legend

Community Reinvestment Area Score

- 0-4
- 5
- 6-10
- Census Block Groups
- Cleveland Heights
- Community Boundaries
- Major Roads
- Minor Roads



Why Doing Business In Cleveland Heights is Easy

Why does Cleveland Heights continue to attract a variety of independently owned businesses?

Cleveland Heights' history and culture creates an atmosphere unmatched in Northeast Ohio in terms of supporting locally-owned businesses. Cleveland Heights' "main street" style commercial districts offer the perfect landing place for any small business. When it comes to Cleveland Heights, you're not just opening a business, you are joining a community.

What tools does the City of Cleveland Heights offer to businesses locating or relocating to Cleveland Heights?

The City has a robust toolbox of programs to help support businesses looking to locate or expand in Cleveland Heights. These include a variety of financing options and possible tax abatements tailored to meet the needs of diverse businesses. Whether you're an entrepreneur with a startup or an established business looking for a new location, Cleveland Heights is able to provide customized support to help facilitate your project.



For established businesses looking to expand or locate in Cleveland Heights, the City has several loan programs, typically featuring below market rates, to help facilitate your project. Ideal uses for City loan funds are leasehold improvements, equipment and real estate. The City's Storefront Renovation Program provides design and financial assistance (rebates and loans) to make improvements to the exterior of your building. For entrepreneurs and startups, we have a Microloan Program that makes smaller loans to help you launch a brick and mortar business in the City. There is also a grant program available to businesses utilizing an SBA loan to provide additional equity in your project.



What are some of the benefits of doing business with and in Cleveland Heights?

With more than 500 unique independently-owned businesses, Cleveland Heights offers your business access to a large and diverse market of customers and a highly educated workforce. With walkable commercial districts integrated into residential neighborhoods and located just up the hill from major downtown and University Circle institutions, and along major commuting corridors, Cleveland Heights gives your business unparalleled opportunities not available elsewhere in Greater Cleveland.



Tim Boland is Economic Development Director for the City of Cleveland Heights (tboland@clvhts.com)



www.clevelandheights.com

Contact the City of Cleveland Heights today to learn more about becoming a part of Northeast Ohio's home for small business.



Memorandum

To: Tanisha Briley- City Manager
From: Allan Butler- Housing Programs Director
Date: June 22, 2018
Re: Weekly Update

- NCRC Home Rehab Program: John Lynch from Keller Williams presented to First Suburbs Housing Committee on the NCRC Home Rehab Program. NCRC is working with banks and other investors to do rehab work in LMI areas and is looking to spend about \$10M in Ohio. Currently, John has worked to purchase two homes in Cleveland Heights and is in discussions with South Euclid and Maple Heights. Potential eligible properties would either need to be purchased in an LMI area or be sold to an LMI buyer to be eligible for this program. I would suggest having John out to your community to have some discussion about this program if you are interested in participating in it. This program likely won't fit across the board in all of our communities but I do think a few hours spent talking with John about potential rehab candidate properties in your community would be a good use of your time. Information John provided is attached.
- Update on Regionalized Code Enforcement Software: Good steady progress continues to be made as communities move forward with implementation of on-line permitting and on-line contractor registration. The group will be in Lakewood next Wednesday, June 27 at 9:30 AM to take a look at the progress made on our first two cities to launch into implementation – Lakewood and South Euclid.
- Divvy Homes: Alison Benoit with Keller Williams presented to First Suburbs Housing Committee on this new rent to own/fractional ownership program. Recently launched in Northeast Ohio, Divvy Homes offers an alternative to traditional homeownership which seems to be a hybrid of leasing a vehicle and using Orbitz to plan your vacation. To date, Alison has closed 15 Divvy transactions and all are in Divvy's name on recorded documents. Similar to other rent to own programs, a buyer will place a small down payment on a property they will lease for a three year period. A portion of their rent will be held and returned to them at the end of the three years to be used as a down payment to purchase the property. These properties should be considered rentals during this period and would follow each municipality's rental procedures for inspections and/or registration.



Cleveland Heights Fire Department

Weekly Activity Report

Total Emergency Calls Year To Date	3,364
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Total Emergency Calls for Period	163
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Report Date Period: 06/15/2018 - 06/22/2018

Fire Data

	<u>Current Period</u>	<u>Year to Date</u>	<u>Last Year to Date</u>	<u>Current Year % of Run Count</u>
Emergency Fire Run Count	39	680	544	20.86 %
Emergency Structure Fire Count		40	39	
Emergency Non Structure Fire Count	39	637	502	
Emergency Vehicle Fire Count		3	3	

Emergency Medical Data

Total Emergency Run Count	124	2,684	2,482	79.14 %
Emergency Medical Run Count	118	2,602	2,417	
Automobile Accident Run Count	6	82	65	
Advanced Life Support Run Count	34	675	702	
Basic Life Support Run Count	86	1,990	1,774	
Total EMS Transports	72	1,780	1,633	
Total EMS Non Transports	46	765	735	

Mutual Aid Run Count to Date

Mutual aid received	SEFD A - 30 SHFD A - 24 ECFD A - 9 UHFD A - 29
Mutual aid given	SEFD A - 26 SHFD A - 25 ECFD A - 14 UHFD A - 6
Automatic aid received	SEFD A - 5 SHFD A - 14 ECFD A - 6 UHFD A - 9
Automatic aid given	SEFD A - 2 SHFD A - 9 ECFD A - 0 UHFD A - 1

<u>Fire Prevention Bureau</u>	<u>Current Period</u>	<u>Year to Date</u>
Total Completed Fire Inspections	32	708
Company Fire Inspections	11	192
Fire Prevention Fire Inspections		9
Fire Alarm Test Inspections		
Kitchen Supression Test Inspections		
Sprinkler Test Inspections		
Other Inspections	21	507
Smoke Detectors Distributed	3	74

CITY OF
CLEVELAND
HEIGHTS 

DEPARTMENT OF POLICE

ANNETTE M. MECKLENBURG, CHIEF

40 SEVERANCE CIRCLE, CLEVELAND HEIGHTS, OHIO 44118 – Telephone 216-291-4974

MEMORANDUM

To: Tanisha R. Briley, City Manager

From: Annette Mecklenburg, Chief of Police

Date: June 22, 2018

Subject: Weekly Update

Update to City's Objection for new liquor permit at 3070 Mayfield Rd., Family Dollar. –

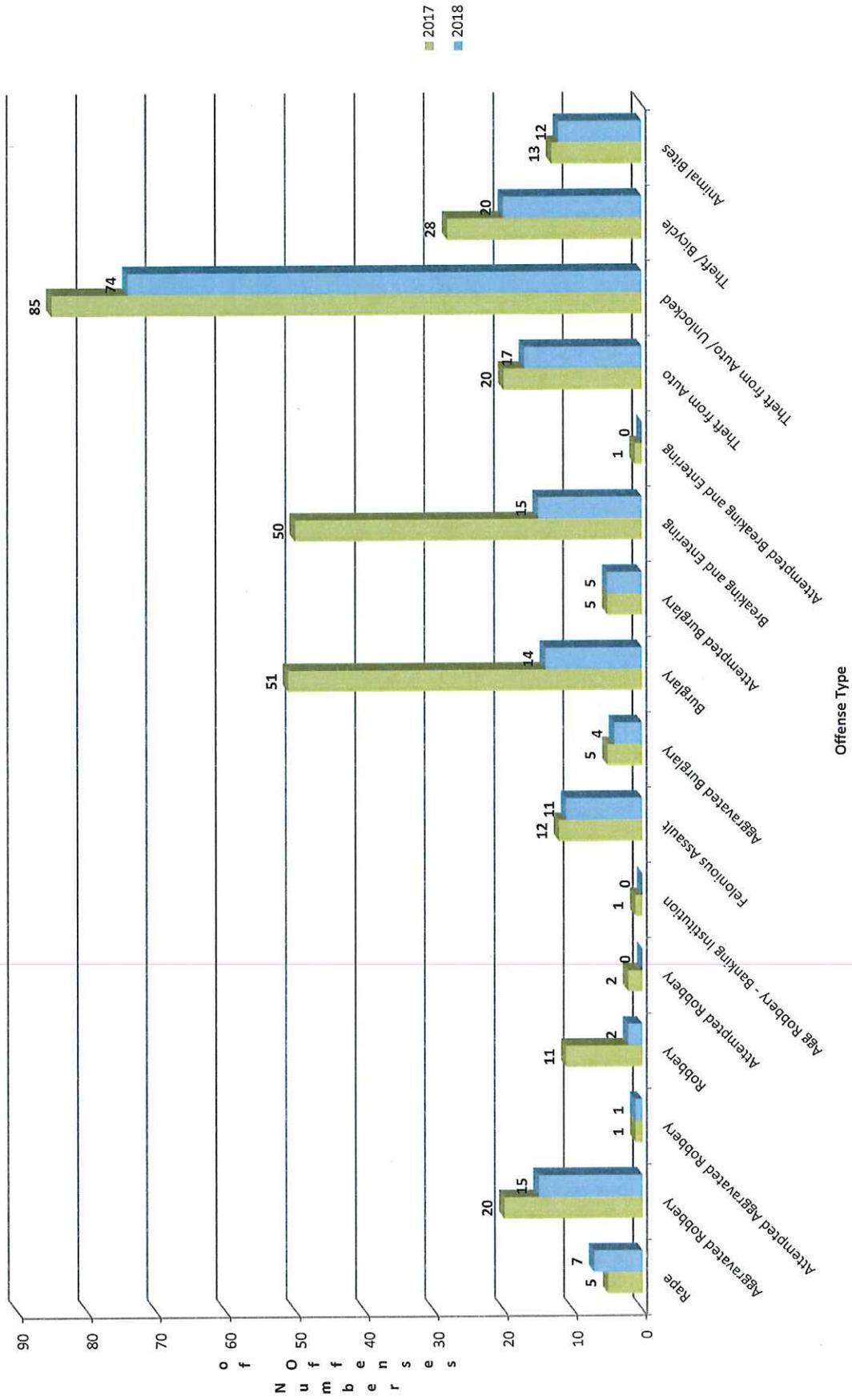
The Ohio Division of Liquor Control rendered a decision in the City's objection for a new Liquor Permit request by Family Dollar at 3070 Mayfield Rd. The Division of Liquor Control denied and rejected the application based upon the grounds and facts: 1) the location for the permit would create a substantial interference with public decency, sobriety, peace or good order with respect to the neighborhood; 2) the applicant has shown a disregard for the laws, regulations, or local ordinances of the State; 3) the numerous calls for police services to this location; and 4) the 18 citations issued by the City Building Department between April 2013 to January 2018 for problems with litter, landscaping, weeds and tall grass, and broken windows. The applicant has 30 days to file an appeal of this denial for a liquor permit.

Upcoming Events:

Safety Forces Night Out – Community Center August 7, 2018 6:00 pm – 9:00 pm

Citizens Police Academy – August 14 – September 26, 2018

Crime Comparison:
January 1 - June 22, 2017 Compared to January 1 - June 22, 2018



CALENDAR NO. 3456:

Dapcel, Inc., 2310-2314 S. Overlook Rd., 'A' Single-Family District, requests a variance to Section 1121.12(a)(10) to permit 2 air conditioning condensers in the front yard (not permitted).

Action: Granted 5-0 with the following conditions:

1. Receipt of applicable Building Permits;
2. Submit landscape plan to screen the air conditioning condensers from view of street and neighbors for Planning Director's approval; and
3. Complete construction within 18 months of the effective date of this variance.

CALENDAR NO. 3457:

Ruffing Montessori School, 17412 Shelburne Rd., 'AA' Single-Family District, requests variances to Section 1121.12(i)(1) to permit a 7' tall decorative fence in a portion of the front yard parallel to the property line shared with 17420 Shelburne Rd. (4' max. ht. permitted) and to section 1153.03(3) to permit an existing house with a front setback of 24.44' and side setback of 1.23' to remain as a school building (50' min setbacks req'd.).

Action: Granted 5-0 with the following conditions:

1. Receipt of a Fence Permit;
2. The setback variances apply only to the existing single family house as shown on the Welsh's Cleveland Survey dated May 2018. Any renovation to the existing building or new construction that encroaches on the front yard and/or the side yard adjacent to 17420 Shelburne would require a return to the Board of Zoning appeals for a new variance.
3. Complete construction within 18 months of the effective date of this variance; and
4. A requirement to return to the Board of Zoning Appeals for another variance should the property owner consider modifications that would increase the fence's height or length in the front yard.

CALENDAR NO. 3458:

Lachelle Crawl, Mayfield Rd. PPN 681-20-022, 'MF1' Multi-Family District, requests a use variance to Sections 1123.02 and 1123.03 to permit a single family house to be constructed (not permitted).

Action: Granted 5-0 with the following conditions:

1. *Approval of any required site plan variances by the Board of Zoning Appeals;*
2. *Approval of the Architectural Board of Appeals;*
3. *Receipt of a Building Permit; and*
4. *Complete construction within 24 months of the effective date of this variance.*

CALENDAR NO. 3459:

Lachelle Crawl, Mayfield Rd. PPN 681-20-022, 'MF1' Multi-Family District, requests variance to Section 1123.07 to permit side yards to be 8' (15' min req'd.); to permit width at building line to be 70' (100' min. req'd) and to permit development area of 14,070 s.f. (20,000 s.f. min. req'd).

Action: Granted 5-0 with the following conditions:

1. *Approval of Use Variance by City Council;*
2. *Approval of the Architectural Board of Review;*
3. *Receipt of a Building Permit;*
4. *Approval of a landscape plan by the Planning Director;*
5. *Approval of a storm water plan to manage storm water on-site as much is feasible and to assure that no additional storm water flows from the site during and after construction;*
6. *The side yard setback variances are only applicable to a single family structure; and*
7. *Complete construction within 24 months of the effective date of this variance.*

CALENDAR NO. 3460:

Masterworks Automotive, 1789 S. Taylor Rd., 'C2' Local Retail District, requests expansion of nonconforming use to occupy a greater land by expanding their building as shown on the site plan dated May 15, 2018 per Nonconforming Uses Code Section 1173.01.

Action: Granted 5-0

CALENDAR NO. 3460:

Masterworks Automotive, 1789 S. Taylor Rd., 'C2' Local Retail District requests a variance to Code sections 1131.08 (a)(2) to permit parking & drive aisle in front of building along S. Taylor Rd. (not permitted), 1131.075 to permit no windows along Bendemeer Rd (minimum 60% glazing req'd.), 1153.05(u)(6) to permit buffer depth of 5'2" to 6'4" (min. 10' req'd.) and a 6' tall fence (brick wall req'd) along property line shared with 3485 Bendemer Rd, and 1153.053(u)(5) to permit overhead wiring (underground wiring req'd.)

Action: Granted 5-0 with the following conditions:

- 1. The MasterWorks nonconforming use shall continue to be regulated by all auto repair zoning codes;*
- 2. Planning Director approval of landscape plan required by the Planning Commission Conditional Use Permit; and*
- 3. Complete construction within 18 months of the effective date of this variance.*

**CITY OF CLEVELAND HEIGHTS
ARCHITECTURAL BOARD OF REVIEW
MINUTES OF THE MEETING
JUNE 5, 2018**

MEMBERS PRESENT:

Michael Wellman, Vice Chair
Jonathan Kurtz

STAFF PRESENT:

Richard Wong, Planning Director

CALL TO ORDER

Mr. Wong called the meeting to order at 7:00 PM at which time two members were present. Ms. Fliegel's absence was excused.

APPROVAL OF THE MAY 15, 2018 MINUTES

Members had no comments or questions so the minutes were approved as submitted and were signed by Mr. Wellman.

**PUBLIC HEARING
JUNE 5, 2018**

ABR 2018-320: Navy Federal Credit Union, 3128 Whitethorn Road (continued from May 15, 2018), requests to build detached, two-car garage.

- Dunham Brothers Construction's Daz Patterson, 4447 Lee Road, 44128, said the vinyl siding would be white and the shingles of a color to match the house's shingles.

ACTION: Mr. Wellman moved to approve the garage as shown on the plans by Dunham Brothers Construction, received May 1, 2018. Seconded by Mr. Kurtz, the motion was unanimously approved.

ABR 2018-323: Elizabeth Campbell, 3328 Tullamore Road, requests to build detached, two-car garage.

- New Creation Builders' Diane Bija, 5309 Barkwill Avenue, 44127, said the vinyl siding would be white and the shingles of a color to match the house's shingles.

ACTION: Mr. Wellman moved to approve the garage as shown on the plans by New Creation Builders, received May 7, 2018. Seconded by Mr. Kurtz, the motion was unanimously approved.

ABR 2018-324: Elizabeth Armstrong, 3146 Washington Boulevard, requests to build detached, 1-1/2-car garage.

- Elizabeth Armstrong said in response to a question from Mr. Wellman, the 1-1/2 car garage passed zoning because the former garage was also not a

code-conforming 2-car garage. She did not want the new garage to occupy more permeable land than necessary.

ACTION: Mr. Kurtz moved to approve the garage as shown on the plans by The Great Garage Company, received May 14, 2018. Seconded by Mr. Wellman, the motion was unanimously approved.

ABR 2018-325: Lateefah Hafeez, 3256 Cedarbrook Road, requests to build detached, 2-car garage.

- Shannonwood Homes' Bob Wakut, 1635 Wood Road, 44118, said a 24' by 24' garage was proposed. Even though the side-hinged door was shown on the left side, Mr. Wakut asked if the door could be on the front wall to the left of the overhead door.
- Members agreed that the side-hinged door could be on the front. Mr. Wong said that the garage's front wall would still need lateral bracing.

ACTION: Mr. Wellman moved to approve the garage as shown on the plans by Shannonwood Homes, received May 10, 2018, with the notes that the garage door was to be 16' wide and the side-hinged door was approved on the front wall to the left of the overhead door. Seconded by Mr. Kurtz, the motion was unanimously approved.

ABR 2018-326: Crossfit, 1970 Lee Road, requests to install business identification signs.

- Crossfit's Michael Meilstrup, 1970 Lee Road, 44118, said that the proposed sign would be at the corner tower's east and north walls. In response to a question from Mr. Kurtz, he said the signs would be installed covering the protruding shape that remained from the previous Rite Aid business.
- Mr. Wellman asked if an edge piece could be added.
- Mr. Meilstrup said it would exponentially increase the cost. The move from Taylor Road and new equipment are costly. The protruding chevron shape would be fully covered. The new sign's width matches the chevron's width. In response to a question from Mr. Wellman, he said the chevron's side could be painted white.

ACTION: Mr. Wellman moved to approve the signs as shown on the plans by Fast Signs, received May 14, 2018, with the condition that the top and sides of the sign shall be flush with the existing bumped out portion of the EIFS and the sides painted white. If an alternative solution is proposed, it must have sides that are boxed-in and not appear to be floating over the existing EIFS. Such alternative shall be submitted for ABR administrative approval. Seconded by Mr. Kurtz, the motion was unanimously approved.

ABR 2018-327: Penelope Allen, 3118 Edgehill Road, requests to install 11 solar panels on back roofs of house.

- YellowLite's Rey McPherson, 1925 St. Clair Avenue, 44114, said the 11 panels were to be on the back roofs, not seen from the street.

- In response to a question from Mr. Wellman, Mr. Wong said that the panels complied with zoning regulations. Had they been set back 6' from the roof's edge, ABR review would not have been required.

ACTION: Mr. Wellman moved to approve the solar panels as shown on the plans by YellowLite, received May 14, 2018. Seconded by Mr. Kurtz, the motion was unanimously approved.

ABR 2018-328: Marie Oatman, 15360 Brewster Road, requests to install windows without matching old windows.

- Window Nation's Nick Higgins and Ray Halasz, 4350 Renaissance Parkway, Suite C, 44128, explained that a basement window was going to be replaced without matching the pair of casement windows and fixed window. Instead, a sliding window was proposed and will afford access to the lightwell. All other new windows will match the old.

ACTION: Mr. Wellman moved to approve the window as shown on the plans by Window Nation, received May 15, 2018. Seconded by Mr. Kurtz, the motion was unanimously approved.

ABR 2018-329: Gillian Kazura, 3733 Montevista Road, requests to build detached, two-car garage.

- Gillian Kazura and Regency Developers' Norm Muskal, 2066 South Taylor Road, 44118, said the vinyl siding would match the home's siding color.

ACTION: Mr. Wellman moved to approve the garage as shown on the plans by Regency Developers, received May 15, 2018. Seconded by Mr. Kurtz, the motion was unanimously approved.

ABR 2018-330: Rabbi Boruch Hirshfield, 3699 Shannon Road, requests to build detached, two-car garage.

- Regency Developers' Norm Muskal, 2066 South Taylor Road, 44118, said the vinyl siding and trim would be white. The roof shingles will match the home's shingles.

ACTION: Mr. Kurtz moved to approve the garage as shown on the plans by Regency Developers, received May 15, 2018. Seconded by Mr. Wellman, the motion was unanimously approved.

ABR 2018-331: Otis Johnson, 905 Helmsdale Road, requests to construct 2-car, detached garage.

- The applicant was absent so the case was continued to the next meeting.

ABR 2018-332: Christie Lucco, 2375 Roxboro Road, requests to replace chain link fence installing 4.5'-high wood fence along driveway.

- On the Fence's Ronnie Hawkins, 1259 Cordova Road, 44124, said the 4.5'-high fence will need a variance because code allows 4'. He pointed out that an existing 6'-high wooden fence already exists along the sidewalk. A new section will transition from 4.5' to the old 6'-high fence and be in the same

style as the taller fence. Most nearby properties have a similarly tall fence along the sidewalk.

ACTION: Mr. Wellman moved to approve the fence as shown on the plans by On the Fence, received May 15, 2018. Seconded by Mr. Kurtz, the motion was unanimously approved.

ABR 2018-333: Enhanced Property Management LLC, 1603 Ivydale Road, requests to build detached, two-car garage.

- Enhanced Property Management's Daniell Collyer, 162 Simcox Street, 44181, said she was filling in for her contractor. In response to Mr. Kurtz's question, she said the vinyl siding would match the home's color.

ACTION: Mr. Wellman moved to approve the garage as shown on the plans by Pro Garage Design, received May 15, 2018. Seconded by Mr. Kurtz, the motion was unanimously approved.

ABR 2018-334: Harriet Shaw Applegate, 1522 Crest Road, requests to build addition including greenhouse and solar panels for electricity and hot water.

- Harriet Applegate and Chris Shaw, explained that two maples died that were in the Google Streetview photos. A solar addition with 12 panels will be on a shed roof form that attaches to a greenhouse. Hydronic solar collectors on the end of the greenhouse will supplement the hot water supply. An underground cistern will store water for the garden. The greenhouse is from the Florian Company. Six manual windows will ventilate the greenhouse. The sill base will be of stone. The solar paneled shed roof precipitation will be entirely drained to the cistern.

ACTION: Mr. Wellman moved to approve the addition as shown on the plans by the applicants, received May 24, 2018. Seconded by Mr. Kurtz, the motion was unanimously approved.

Old Business

No old business was raised.

New Business

No new business was raised.

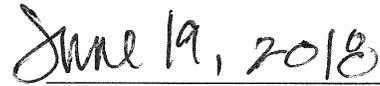
Adjournment

The meeting was adjourned at 7:51 PM.

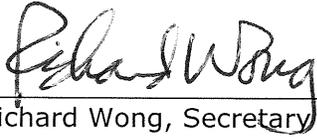
Respectfully Submitted,



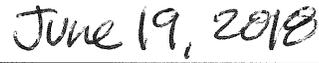
Melissa Fliegel, Chair



date



Richard Wong, Secretary



date

Proposed: 7/2/2018

RESOLUTION NO. (RCER)

By Council Member

A Resolution authorizing the City Manager to enter into an agreement with Align2Market to discover and define the brand of the City of Cleveland Heights and establish tools and resources to promote said brand; and declaring an emergency.

WHEREAS, on April 23, 2018, the City issued a Request for Proposals (“RFP”) to solicit proposals from qualified consulting firms to discover and define the brand of the City of Cleveland Heights and establish tools and resources to promote said brand; and

WHEREAS, the City received several proposals in response to said RFP; and

WHEREAS, the proposals were evaluated based on the following criteria: qualifications and experience of the firm and/or individuals responding to RFP; the specific plans or methodology to be used to perform the services; references from other clients; quality of illustrative examples and the proposed lump sum fee; and

WHEREAS, the Director of Communications and Public Engagement and other City staff have identified the proposal submitted by Align2Market, as the best and most responsive proposal under said criteria.

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

SECTION 1. This Council hereby authorizes the City Manager to enter into an agreement with Align2Market to discover and define the brand of the City of Cleveland Heights and establish tools and resources to promote said brand. The total amount of said agreement shall not exceed Eighty-Five Thousand Dollars (\$85,000). The agreement shall be substantively similar to that currently on file with the Clerk of Council. All documents hereunder shall be in a form approved by the Director of Law.

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

SECTION 3. This Resolution is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need to proceed without delay to remain competitive in the marketplace. Wherefore, provided it receives the affirmative vote of five (5) or more of the members elected or appointed to this Council, this Resolution

RESOLUTION NO. (RCER)

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

CAROL ANN ROE, Mayor
President of the Council

LAURIE SABIN
Clerk of Council

PASSED:

Proposed: 7/2/2018

RESOLUTION NO. (CRR)

By Council Member

A Resolution proclaiming July 2018, *National Parks and Recreation Month*, in the City of Cleveland Heights; and declaring an emergency.

WHEREAS parks and recreation programs are an integral part of communities throughout this country, including the City of Cleveland Heights; and

WHEREAS our parks and recreation are vitally important to establishing and maintaining the quality of life in our communities, ensuring the health of all citizens, and contributing to the economic and environmental well-being of a community and region; and

WHEREAS parks and recreation programs build healthy, active communities that aid in the prevention of chronic disease, provide therapeutic recreation services for those who are mentally or physically disabled, and also improve the mental and emotional health of all citizens; and

WHEREAS parks and recreation programs increase a community's economic prosperity through increased property values, expansion of the local tax base, increased tourism, the attraction and retention of businesses, and crime reduction; and

WHEREAS parks and recreation areas are fundamental to the environmental well-being of our community; and

WHEREAS parks and natural recreation areas improve water quality, protect groundwater, prevent flooding, improve the quality of the air we breathe, provide vegetative buffers to development, and produce habitat for wildlife; and

WHEREAS our parks and natural recreation areas ensure the ecological beauty of our community and provide a place for children and adults to connect with nature and recreate outdoors; and

WHEREAS the U.S. House of Representatives has designated July as *Parks and Recreation Month*; and

WHEREAS, the City of Cleveland Heights is honored to take part in the annual observance of *National Parks and Recreation Month* to distinguish Cleveland Heights as an attractive and desirable community to live, work, play, and visit.

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

RESOLUTION NO. (CRR)

SECTION 1. This Council hereby proclaims July 2018, *National Parks and Recreation Month*, in the City of Cleveland Heights and encourages residents to take advantage of the many opportunities to participate in parks and recreation programs and enjoy the amenities available through the City of Cleveland Heights' parks, Cumberland Outdoor Pool, and the Cleveland Heights Community Center.

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

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

CAROL ANN ROE, Mayor
President of the Council

LAURIE SABIN
Clerk of Council

PASSED:

Proposed: 7/2/2018

ORDINANCE NO. (SMS), *First Reading*

By Council Member

An Ordinance enacting Chapter 943, “Use of Public Ways for Small Cell Wireless Facilities and Wireless Support Structures,” of Part Nine, *Streets, Utilities and Public Services Code* of the Codified Ordinances of Cleveland Heights; and declaring an emergency.

WHEREAS, Substitute House Bill 478 (Sub. H.B. 478) will go into effect on July 31, 2018; and

WHEREAS, Sub. H.B. 478 amends Ohio Revised Code Chapter 4939 to provide, among other things, that municipalities must permit wireless service providers, cable providers, video service providers, and their designated agents to attach small cell wireless facilities to municipally owned support structures located in the right-of-way, including on utility poles, traffic signals, and street lights and to construct, maintain, modify, operate, or replace a wireless support structure in the right-of-way; and

WHEREAS, this Council desires to regulate small cell facilities, new wireless support structures, and the persons and entities who desire to construct, operate, and maintain such facilities in the City; and

WHEREAS, this Council believes that enacting new Chapter 943, “Use of Public Ways for Small Cell Wireless Facilities and Wireless Support Structures” of Part Nine, *Streets, Utilities and Public Services Code* of the Codified Ordinances of Cleveland Heights, promotes the public health, safety and welfare of the City and its residents.

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

SECTION 1. Chapter 943, “Use of Public Ways for Small Cell Wireless Facilities and Wireless Support Structures” of Part Nine, *Streets, Utilities and Public Services Code* of the Codified Ordinances of Cleveland Heights shall be, and is hereby, enacted and adopted in its entirety to read as Exhibit A attached hereto and fully incorporated herein. A complete copy of Exhibit A is also on file with the Clerk of Council.

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

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

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regulations before Sub. H.B. 478 goes into effect. Wherefore, provided it receives the affirmative vote of five or more of the members elected or appointed to this Council, this Resolution shall take effect and be in force immediately upon passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

CAROL ANN ROE, Mayor
President of the Council

LAURIE SABIN
Clerk of Council

PASSED:

Exhibit A

CHAPTER 943 USE OF PUBLIC WAYS FOR SMALL CELL WIRELESS FACILITIES AND WIRELESS SUPPORT STRUCTURES

943.01 OVERVIEW AND PURPOSE; DEFINITIONS; EFFECTIVE DATE

- (a) The purpose of this Chapter is to:
- (1) Protect the health, safety, and welfare of the residents of the City;
 - (2) Provide standards for the construction, installation, modification, operation, and removal of Facilities and Wireless Support Structures in the City's Right-of-Way to protect the health, safety, and welfare of the citizens of the City;
 - (3) Preserve the existing or intended character of the City, including the City's residential neighborhoods, commercial districts, and historic districts;
 - (4) Give guidance to wireless telecommunications providers to assist such companies in the timely, efficient, safe, and aesthetically pleasing installation of Facilities and Wireless Support Structures; and
 - (5) Comply with, and not conflict with or preempt, all applicable state and federal laws.

(b) For the purpose of this Chapter, and the interpretation and enforcement hereof, the following words and phrases shall have the following meanings, unless the context of the sentence in which they are used shall indicate otherwise:

- (1) "Applicant" means any person or entity who submits an Application pursuant to this Chapter.
- (2) "Application" means all necessary documentation submitted by an Applicant to obtain a Small Cell Use Permit from the City to Collocate a Small Cell Facility and/or to construct, maintain, modify, operate, or replace a Wireless Support Structure.
- (3) "Accessory Equipment" means equipment used in conjunction with a Small Cell Facility and generally at the same location of the Small Cell Facility, including, but not limited to, electric meters, concealment

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elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, vertical cable runs and other appurtenances.

- (4) “City” means the City of Cleveland Heights.
- (5) “Collocation” or “Collocate” means to install, mount, maintain, modify, operate, or replace wireless Facilities on a Wireless Support Structure.
- (6) “Design Guidelines” means standards applicable to Small Cell Equipment and Wireless Support Structures in the Right-of-Way, established in Sections 943.21 et seq. herein.
- (7) “Eligible Facilities Request” means any request for modification of an existing support structure or base station that does not substantially change the physical dimension of such support structure involving Collocation of new Facilities; removal of Facilities; or replacement of Facilities. A substantial change means:
 - (i) A modification that changes the physical dimension of a Wireless Support Structure by increasing the height of the Wireless Support Structure by more than ten percent (10%) or more than ten (10) feet, whichever is greater; and/or by adding an appurtenance to the body of the Wireless Support Structure that would protrude from the edge of the Wireless Support Structure by more than six (6) feet;
 - (ii) The installation of more than the standard number of equipment cabinets for the technology involved or the installation of more than (4) cabinets, whichever is less;
 - (iii) The installation for any new ground-mounted equipment cabinets if there are not existing ground-mounted equipment cabinets;
 - (iv) Any excavation or deployment outside of the current site of the Facility;
 - (v) Removal of any concealment elements of the Facilities or the Wireless Support Structure; or
 - (vi) Any change that does not comply with this Chapter, including but not limited to the Design Guidelines set forth in Sections 943.21 et seq. herein, or state or federal law and regulations.

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The threshold for measuring increases that may constitute a substantial change are cumulative, measured from the Facilities as originally permitted (including any modifications that were reviewed and approved by the City prior to the enactment of the Spectrum Act on February 22, 2012).

- (8) “Facilities” means Small Cell Facilities, Accessory Equipment, and Wireless Support Structures.
- (9) “Facilities Operator” means the person or entity responsible for the installation, operation, maintenance, replacement, and modification of Facilities. Facilities Operator includes:
 - (i) Operators;
 - (ii) Applicants who applied for consent to Collocate a Small Cell Facility or to construct, maintain, modify, operate, or replace a new Wireless Support Structure pursuant to Ohio R.C. Section 4939.031(E) and who have obtained a Small Cell Use Permit; and
 - (iii) Applicants who applied for consent to Collocate a Small Cell Facility or to construct, maintain, modify, operate, or replace a new Wireless Support Structure pursuant to Ohio R.C. Section 4939.033 and who have obtained a Small Cell Use Permit.
- (10) “Historic District” means a building, property, or site, or group of buildings, properties, or sites that are either of the following:
 - (i) Listed in the national register of historic places or formally determined eligible for listing by the keeper of the national register, the individual who has been delegated the authority by the federal agency to list properties and determine their eligibility for the national register, in accordance with section VI.D.1.a.i-v of the nationwide programmatic agreement codified at 47 C.F.R. part 1, Appendix C;
 - (ii) A registered historic district as defined in section 149.311 of the Revised Code.
- (11) “Operator” means a wireless service provider, cable Operator, or a video service provider that operates a Small Cell Facility and provides wireless service, including a wireless service provider, cable operator, or a video service provider that provides information services as defined in the "Telecommunications Act of 1996," 110 Stat. 59, 47 U.S.C. 153(20), and services that are fixed in nature or use unlicensed spectrum.

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- (12) “Public Way” or “Right-of-Way” means the surface of, and the space within, through, on, across, above or below, any public street, public road, public highway, public freeway, public lane, public path, public alley, public court, public sidewalk, public boulevard, public parkway, public drive, public easement, and any other land dedicated or otherwise designated for a comparable public use, which is owned or controlled by the City or other public entity or political subdivision.
- (13) “Small Cell Facility” means a wireless facility that meets both of the following requirements:
 - (i) Each antenna is located inside an enclosure of not more than six (6) cubic feet in volume or, in the case of an antenna with exposed elements, the antenna and all of its exposed elements can fit within an enclosure of not more than six (6) cubic feet in volume; and
 - (ii) All other wireless equipment associated with the facility is cumulatively not more than twenty-eight (28) cubic feet in volume. The calculation of equipment volume shall not include electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.
- (14) “Small Cell Equipment” means a Small Cell Facility and all Accessory Equipment.
- (15) “Small Cell Use Permit” means the permit granted by the City authorizing the Applicant to Collocate a Small Cell Facility or to construct, maintain, modify, operate, or replace a Wireless Support Structure in the Right-of-Way.
- (16) “Underground Area” means an area in the Right-of-Way where existing electric utilities, cable facilities, telecommunications facilities and other facilities, other than structures and facilities owned by the City or a transit authority, are located underground.
- (17) “Wireless Support Structure” means a pole, such as a monopole, either guyed or self-supporting, street light pole, traffic signal pole, a fifteen (15) feet or taller sign pole, or utility pole capable of supporting Small Cell Facilities. As used in this Chapter, “Wireless Support Structure” excludes all of the following:

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- (i) A utility pole or other facility owned or operated by a municipal electric utility; and
 - (ii) A utility pole or other facility used to supply traction power to public transit systems, including railways, trams, streetcars, and trolleybuses.
- (c) The effective date of this Chapter shall be July 31, 2018.

943.02 CONSENT REQUIRED

(a) Any person or entity seeking to Collocate a Small Cell Facility in the Right-of-Way, or to construct, maintain, modify, operate, or replace a Wireless Support Structure in the Right-of-Way, shall first file a written Application for a Small Cell Use Permit with the City Manager or designee in accordance with the requirements in this Chapter, including, but not limited to the Design Guidelines set forth in Sections 943.21 et seq. herein, Ohio R.C. Chapter 4939, and all applicable state and federal laws and regulations.

(b) Applicants are strongly encouraged to contact the City Manager or designee and request a pre-Application conference. This meeting will provide an opportunity for early coordination regarding proposed Facilities, locations, design, Application submittal, and the approval process in order to avoid any potential delays in the processing of an Application and deployment of Facilities in the City.

(c) A Small Cell Use Permit granted under this Chapter shall not convey any right, title or interest in the Right-of-Way, but shall be deemed a permit only to use and occupy the Public Ways for the limited purposes and term stated in the permit, this Chapter, and the Design Guidelines set forth in Sections 943.21 et seq. herein. Further, no Small Cell Use Permit shall be construed as any warranty of title.

943.03 PERMIT APPLICATION TYPES

Applicants shall classify their Application as one of the following types:

- (a) Type 1: Eligible Facilities Requests.
- (b) Type 2: Application for Collocation of Small Cell Equipment on a Wireless Support Structure that does not constitute an Eligible Facilities Request.
- (c) Type 3: New Wireless Support Structure. Such applications will address construction, modification, replacement, or removal of a Wireless Support Structure within the Right-of-Way. At the time of Application, Applicants shall certify that Small Cell Equipment will be placed on the Wireless Support Structure within 180 days from the date the Small Cell Use Permit is issued.

943.04 CONSOLIDATED CONSENT APPLICATIONS

(a) Pursuant to Ohio R.C. Section 4939.0312, an Applicant may file one consolidated application for up to thirty (30) individual small cell Facilities or thirty (30) individual Wireless Support Structures as long as the facilities or structures for which consent is requested are substantially similar.

- (1) Small Cell Facilities shall be considered substantially similar when the Small Cell Equipment is identical in type, size, appearance and function.
- (2) Wireless Support Structures shall be considered substantially similar when the Wireless Support Structures are identical in type, size, appearance and function and are to be located in a similar location.
- (3) Applications for Facilities and Wireless Support Structures cannot be commingled.

(b) The City may, at its discretion, require separate Applications for any Small Cell Facilities or Wireless Support Structures that are not substantially similar.

943.05 APPLICATION FEE

(a) The fee for each application is Two Hundred Fifty Dollars (\$250.00). The City shall adjust the fee by ten percent (10%) every five (5) years, rounded to the nearest Five (5) Dollars, beginning in the year 2023.

(b) An Application shall not be deemed complete until the fee is paid.

(c) If Applications are consolidated, then the fee shall be the sum resulting from the fee set forth in subsection (a) multiplied by the total number of Facilities or Wireless Support Structures included in the consolidated Application.

943.06 ATTACHMENT FEE

(a) In addition to the Application Fee, an annual fee of Two Hundred Dollars (\$200.00) shall be paid to the City for each Small Cell Facility attached to a municipally-owned Wireless Support. The City shall adjust the attachment fee by ten percent (10%) every five years, rounded to the nearest five (5) dollars, beginning in the year 2023.

(b) The first-year attachment fee shall be paid when the collocation is complete, and no later than January 1 each year thereafter. The first-year attachment fee shall not be prorated, regardless of the date that the collocation is complete.

943.07 REQUIRED APPLICATION MATERIALS

The Applicant must submit the following documentation with each Application.

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(a) Completed Application form including the identity, legal status and federal tax identification number of the Applicant, as well as all affiliates and agents of the Applicant that will use or be, in any way, responsible for the Facilities.

(b) The name, address, and telephone number of the local officer, agent, or employee responsible for the accuracy of the application to be notified in case of emergency.

(c) Fully dimensional scaled site plan (scale no smaller than one inch equals forty (40) feet). The site plan must include:

- (1) The exact proposed location of the Facilities within the Right-of-Way by GPS coordinates and/or in degrees, minutes and seconds (“DMS”);
- (2) All existing Facilities with all existing transmission equipment;
- (3) The location of all overhead and underground public utilities, telecommunications, cable, water, sanitary sewer, and storm water drainage utilities in the Public Way within one hundred (100) feet surrounding the proposed Facilities;
- (4) The legal property boundaries within one hundred (100) feet surrounding the proposed Facilities;
- (5) Indication of distance between the Facilities and existing curbs, driveways, sidewalks, trees, utilities, other poles, and existing buildings within one hundred (100) feet surrounding the proposed Facilities; and
- (6) Access and utility easements within one hundred (100) feet surrounding the proposed Facilities.

(d) Elevation drawings (scale no smaller than one inch equals ten (10) feet) of the proposed Facilities.

(e) Evidence that the Applicant provided notice by mail to all property owners within three hundred (300) feet of the proposed Facilities prior to submitting the Application. The notice shall include:

- (1) Name of the Applicant;
- (2) Estimated date Applicant intends to submit the Application;
- (3) Detailed description of the proposed Facilities and the proposed location; and

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- (4) Accurate, to-scale color photo simulation of the proposed Facilities. Scale shall be no smaller than one inch equals forty (40) feet and shall depict surrounding area within one hundred (100) feet of the proposed Facilities.
- (h) A preliminary installation/construction schedule and completion date.
- (i) Structural calculations prepared, stamped and signed by an engineer licensed and registered by the State of Ohio showing that the Wireless Support Structure can accommodate the weight of the proposed small cell equipment.
- (j) Analysis demonstrating that the proposed Facilities do not interfere with the City's public safety radio system, traffic and emergency signal light system, or other City safety communications components. It shall be the responsibility of the Applicant to evaluate, prior to making the Application for a Small Cell Use Permit, the compatibility between the existing City infrastructure and Applicant's proposed Facilities.
- (k) A landscape plan that demonstrates screening of proposed small cell equipment.
- (l) Detailed and/or shop drawings of the proposed Facilities. For all equipment depicted, the Applicant must also include, if applicable:
 - (1) The manufacturer's name and model number;
 - (2) Physical dimensions, including, without limitation, height, width, depth and weight with mounts and other necessary hardware; and
 - (3) The noise level generated by the equipment, if any.
- (m) If the Applicant is not an Operator, then the Applicant must provide proof that the Applicant has been engaged by a wireless service provider who will be the end-user of the Facilities.

943.08 APPLICATION REVIEW

- (a) Applications shall be evaluated in the timeframes as follows:
 - (1) Type 1 Applications 60 days
 - (2) Type 2 Applications 90 days
 - (3) Type 3 Applications 120 days
- (b) Applications shall be reviewed for completeness. If the Application is incomplete, then the Applicant shall be notified of the insufficiency, and the timeframes set forth in subsection (a) shall be tolled until the Application is made complete

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- (c) The timeframes set out in subsection (a) may also be tolled as follows:
- (1) If the City receives more than twenty-five (25) applications in a thirty (30) day period, then the City may toll for an additional twenty (20) days.
 - (2) If the City receives more than twenty-five applications in a thirty (30) day period, then the City may toll for an additional fifteen (15) days for every fifteen (15) applications received.
 - (3) By mutual written agreement between the Applicant and the City.
 - (4) When an Applicant submits an underground area waiver pursuant to Section 943.32(d) herein, in which case the City may toll for an additional fourteen (14) days.

(d) If two Applicants request to Collocate on the same Wireless Support Structure or two Wireless Support Structures are proposed within a distance that would violate the spacing requirements set forth in Section 943.16 here, then the City Manager or designee may resolve the conflict in any reasonable and nondiscriminatory manner.

(e) If a request for Small Cell Use Permit is denied, the City shall provide, in writing, its reasons for denying the request, supported by substantial, competent evidence. The denial of consent shall not unreasonably discriminate against the Applicant. Grounds for denying an Application may include, but are not limited to:

- (1) Failure to provide information required under Section 943.07;
- (2) Failure to comply with Design Guidelines set forth in set forth in Sections 943.21 et seq. herein;
- (3) Failure to provide financial surety pursuant to Section 943.15;
- (4) Failure to remove abandoned Facilities as required under Section 943.12;
- (5) Conflict with the historic nature or character of the surrounding area;
- (6) Conflict with planned future improvements in the Right-of-Way; and
- (7) Failure to comply with generally applicable health, safety, and welfare requirements.

943.09 PERMITTING PROCESS, DURATION, AND TERMINATION

(a) Upon approval of its Application, an Applicant shall receive a Small Cell Use Permit indicating that the City has granted the Applicant consent to occupy the Right-of-Way.

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(b) A Small Cell Use Permit issued to an Operator shall have duration of ten (10) years. Permits may be renewed for five year terms.

(c) A Small Cell Use Permit issued to a Facilities Operator who is not an Operator shall have a term of ten (10) years or the duration of the Facilities Operator's agreement with a wireless service provider provided pursuant to Section 943.07(k), whichever is shorter.

(d) A Small Cell Use Permit shall not be renewed if the Facilities Operator or the Facilities are not in compliance with each and every applicable law and regulation.

(e) Pursuant to Ohio R.C. Section 4939.0314(E), a Small Cell Use Permit shall be deemed terminated if the Facilities Operator has not completed construction of the Facilities or has failed to attach Small Cell Equipment to a Wireless Support Structure within one hundred eighty (180) days of issuance of the permit, unless the delay is caused by:

- (1) Make-ready work for a municipally-owned Wireless Support Structure; or
- (2) Due to the lack of commercial power or backhaul availability at the site, provided that the Operator has made a request for commercial power or backhaul services within sixty (60) days after the Small Cell Use Permit was granted.

If the additional time to complete the installation exceeds three hundred sixty days (360) after the issuance of the permit, then the permit shall be deemed terminated regardless of the cause of the delay.

(f) A Small Cell Use Permit for a new Wireless Support Structure shall be deemed terminated if the Facilities Operator fails to attach Small Cell Equipment to the new Wireless Support Structure within one hundred eighty (180) days of issuance of the Small Cell Use Permit.

(g) If the Facilities Operator fails to remit the annual attachment fee required pursuant to Section 943.06, then the Small Cell Use Permit will expire on the ninetieth (90th) day from the date the annual attachment fee was due.

(h) If the Facilities Operator fails to remit the annual registration required pursuant to Section 943.10, then the Small Cell Use Permit will expire on the ninetieth (90th) day from the date the annual registration was due.

(i) A Small Cell Use Permit may be terminated by the Facilities Operator at any time upon service of 60-days written notice to the City.

(j) Upon termination of a Small Cell Use Permit, the Facilities Operator shall restore and rehabilitate all City-owned Wireless Support Structures and the Right-of-Way to their former condition and utility.

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(k) The City shall not issue any refunds for any amounts paid by the Facilities Operator upon termination of the permit.

943.10 ANNUAL REGISTRATION

Facilities Operators shall comply with the annual registration requirements set forth in Section 941.03 of Chapter 941, "Use of Public Ways by Service Providers."

943.11 NONCONFORMING FACILITIES

(a) Facilities in the Right-of-Way that are legally in existence on the date of the adoption of this Chapter but that do not comply with the requirements of this Chapter may remain in the Right-of-Way but shall be considered a Nonconforming Facility.

(b) Any person or entity who owns or operates a Nonconforming Facility shall register such facility pursuant to Section 941.03 by no later than November 1, 2018.

(c) If a Nonconforming Facility is damaged or destroyed beyond repair, any replacement facility must be designed in accordance with all provisions of this Chapter, the Design Guidelines established in Sections 943.21 et seq. herein, and state and federal law and regulations.

943.12 ABANDONED AND DAMAGED FACILITIES

(a) A Facilities Operator shall provide written notice to the City of its intent to discontinue use of any Facilities. The notice shall include the date the use will be discontinued. If Facilities are not removed within three hundred sixty five (365) days from the date the use was discontinued, the City may remove the Facilities at the expense of the Facilities Operator after providing thirty (30) days written notice to the Facilities Operator of its intent to do so.

(b) In the event that Facilities are damaged, the Facilities Operator shall promptly repair the damaged Facilities. Damaged Facilities shall be repaired no later than thirty (30) days after obtaining written notice that the Facilities were damaged. If the damaged Facilities are not repaired within thirty (30) days, then the City may repair or remove the damaged Facilities at the expense of the Facilities Operator after providing thirty (30) days written notice to the Facilities Operator of its intent to do so.

943.13 INSURANCE REQUIREMENTS

Facilities Operators shall comply with the insurance requirements set forth in Subsection 941.02(e).

943.14 INDEMNIFICATION

A Facilities Operator shall indemnify, protect, defend, and hold the City and its elected officials, officers, employees, agents, and volunteers harmless against any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees to include reasonable attorney fees and costs of defense, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including personal or bodily injury or death, property damage or other harm for which recovery of damages is sought, resulting from or alleged to arise out of or result from the negligent, careless or wrongful acts, omissions, failure to act or misconduct of the Operator who owns or operates Small Cell Facilities and wireless service in the Right-of-Way, any agent, officer, director, representative, employee, affiliate, or subcontractor of the Operator, or their respective officers, agents, employees, directors, or representatives while installing, repairing, or maintaining Facilities in the Right-of-Way.

943.15 FINANCIAL SURETY

(a) Each Facilities Operator must procure and provide to the City a bond, escrow, deposit, letter of credit, or other financial surety to ensure compliance with this Chapter and Ohio R.C. Chapter 4939. The financial surety shall be in compliance with Subsection 941.02(g) or as otherwise determined reasonable by the City Manager or designee.

(b) The City may, in its sole discretion, draw on the financial surety to remove abandoned Facilities, remove or repair damaged Facilities, or to repair damage to any City property caused by the Facilities Operator or its agent. In such event, the Facilities Operator shall cause the financial surety be replenished to its prior amount within ten (10) business days after City notifies the Facilities Operator that it has drawn on the financial surety.

943.16 RESERVED SPACE

The City reserves the right to install, and permit others to install, Facilities in the Right-of-Way. The City may reserve space in the Right-of-Way and on Wireless Support Structures for future utility, safety, or transportation uses. Such space may be reserved in an ordinance or plan approved by the City Manager, City Council, Building Commissioner, or Planning Commission.

943.17 REMOVAL OR RELOCATION OF FACILITIES

(a) The City may require a Facilities Operator to remove or relocate Facilities to accomplish construction and maintenance activities. The Facilities Operator shall remove or relocate the Facilities at no cost to the City. If the Facilities Operator fails to remove or relocate the Facilities within ninety (90) days of receiving a request to do so from the City, then the City may remove the Facilities at Facilities Operator's sole cost and expense, without further notice to the Facilities Operator.

(b) If the Facilities are placed in a location other than the location approved by the City, the Facilities Operator shall relocate the Facilities within thirty (30) days of receiving notice that the Facilities are located improperly.

943.18 NOTICE OF WORK

A Facilities Operator shall notify the City Manager or designee of all nonemergency work within ten (10) calendar days prior to performing any upgrades or maintenance on any Facilities, regardless of whether the work requires any permit or consent from the City.

943.19 CONSTRUCTION PERMIT

Facilities Operators are required to obtain a construction permit pursuant to Section 941.07 including, but not limited, to the construction bond set forth in Subsection 941.07(g), prior to commencing any of the following activities:

- (1) Collocation of small cell equipment on a Wireless Support Structure;
- (2) Replacement, modification, repair, or maintenance of small cell equipment;
- (3) Construction, replacement, modification, repair, or maintenance of a Wireless Support Structure associated with a small cell facility; and
- (4) Any excavation of the Right-of-Way in connection with the activities described in this Section.

943.20 EXCAVATION PERMIT.

If a Facilities Operator must construct, reconstruct, alter, repair, remove or replace any culvert, sidewalk or driveway in any public street or road Right-of-Way, then the Facilities Operator shall obtain the required permit pursuant to Section 941.07 including, but not limited, to the construction bond set forth in Subsection 941.07(g).

943.21 GENERAL DESIGN STANDARDS

(a) Facilities shall not be installed unless the Facilities are compliant with the Design Guidelines, set forth in Sections 943.21 et seq. herein, and any Application requirements, and all applicable local, state, and federal laws. Applicant shall have the burden to demonstrate by substantial and competent evidence that all Design Guidelines have been met.

(b) A Facilities Operator shall not construct, maintain, modify, operate, or replace any Facilities not clearly depicted in an Application for a Small Cell Use Permit.

(c) A Facilities Operator shall not construct, modify, or replace any Facilities without a construction permit pursuant to Section 941.07.

(d) All work shall be performed in a professional manner consistent with the highest standards of workmanship.

(e) Facilities shall be maintained in good and safe condition and in a manner that complies with all applicable federal, state and local requirements.

(f) Facilities shall not be installed in any location that causes any interference with the City's public safety radio system, traffic and emergency signal light system, or other City safety communications systems or system components.

(g) The City may propose an alternative location for proposed Facilities up to one hundred (100) feet from the proposed location or within a distance that is equivalent to the width of the Public Way, whichever is greater. The Facilities Operator shall utilize the alternative location unless the Facilities Operator shows that the alternative location is not technically feasible.

(h) Facilities shall not interfere with existing or planned City-owned trees.

(i) Signage shall be mounted on all new Facilities providing the Facilities Operator's name, an emergency contact phone number, an informational contact number, and all other information required by law. Unless otherwise prohibited by law, signage shall be discreet in color and shall match the Facilities and surrounding area and font size used on the sign shall be no smaller than 9 point font and no larger than 14 point font.

(j) Unless otherwise required by law, all manufacturer stickers and decals shall be removed from Facilities.

(k) A landscape plan, approved by the Director of Planning, shall be required for each Application. Facilities shall be camouflaged using existing land forms, vegetation, and structures to screen the Facilities from view and to blend in with the surrounding built and natural environment.

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(l) The City may require the Facilities Operator to incorporate additional concealment elements before approving an Application. Concealment elements may include, but shall not be limited to, fencing, public art, strategic placement, and placement within existing or replacement street furniture.

(m) Facilities shall not have any flashing lights, sirens or regular noise other than a cooling fan that may run intermittently.

(n) All hardware, including antenna mounting brackets and hardware, antenna mounting posts, cables, shrouds and other equipment mounted shall be painted in a color designated by the City, and the color shall match the Facilities. The City may require the Facilities Operator use a different, non-matching color on a case-by-case basis when the City determines a non-matching color would better fulfill the purposes of these Design Guidelines or match the surrounding area.

(o) A Facilities Operator shall remove or paint over any graffiti on the Facilities at Facility Operator's sole expense as soon as practicable, but no later than ten (10) days from the date the Facilities Operator receives notice of the graffiti. The City shall remove graffiti at the expense of the Facilities Operator after the ten (10) days expires.

943.22 DESIGN SPECIFICATIONS FOR COLLOCATION

(a) Small Cell Equipment shall not interfere with the primary purpose of a Wireless Support Structure.

(b) Small Cell Equipment to be attached to a Wireless Support Structure shall be attached at least six (6) feet above ground level. If Small Cell Equipment is projecting toward the street then the Small Cell Equipment shall be installed no less than sixteen (16) feet above ground level.

943.23 DESIGN SPECIFICATIONS FOR ANTENNAS

(a) Antennas and Accessory Equipment must be capable of fitting within an enclosure not larger than six (6) cubic feet in volume.

(b) Antennas and Accessory Equipment shall not increase the overall height of an existing Wireless Support Structure by more than five (5) feet.

(c) Antennas mounted on a Wireless Support Structure shall be enclosed inside the Wireless Support Structure whenever possible and otherwise within a canister or other shroud. All Accessory Equipment associated with the antenna shall be concealed and shall not visibly protrude from the shroud or canister.

(d) The width of the canister or other shroud encasing the antenna and Accessory Equipment shall not exceed the width of the narrowest portion of the Wireless Support Structure.

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(e) The enclosure or shroud shall be painted to match or complement the Wireless Support Structure.

(f) Antennas shall be installed in a manner that minimizes the visual impact to the general public.

(g) Antennas shall not impair light or views from nearby window(s).

(h) Antennas located on the exterior of a Wireless Support Structure shall be top-mounted on a Wireless Support Structure. The City may approve a side-mounted antenna if, in the City's discretion, the side-mounted antenna would be more appropriate given the built environment, neighborhood character, overall site appearance or would otherwise promote the purposes in these Design Guidelines.

943.24 DESIGN SPECIFICATIONS FOR WIRELESS SUPPORT STRUCTURE-MOUNTED EQUIPMENT

(a) All Wireless Support Structure-mounted Small Cell Equipment other than the antenna(s) and electric meter must be concealed within an equipment cabinet.

(b) Equipment cabinets shall be mounted flush to the Wireless Support Structure.

(c) Equipment cabinets shall be stacked together on the same side of the Wireless Support Structure and oriented away from any windows and doorways to minimize visual impacts thereupon. The cabinet width shall not exceed the Wireless Support Structure's width unless technologically infeasible.

(d) The equipment cabinets must be non-reflective and painted, wrapped or otherwise colored to match the Wireless Support Structure.

943.25 DESIGN SPECIFICATIONS FOR GROUND-MOUNTED SMALL CELL EQUIPMENT

(a) The City shall not approve the proposed location of ground-mounted Small Cell Equipment unless the Applicant (1) proposes the ground-mounted equipment in connection with a Collocation, and (2) shows that the equipment cannot be feasibly placed on the Wireless Support Structure or in an underground vault.

(b) If technically feasible, Small Cell Equipment should be located in a vault buried underground rather than being ground-mounted. If underground placement is not technically feasible, ground-mounted Small Cell Equipment shall be contained in a shroud or cabinet.

(c) All ground-mounted Small Cell Equipment shall be installed in a manner that minimizes the visual and ingress/egress impact to the general public.

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(d) Ground-mounted Small Cell Equipment shall be placed as far as practicable from pedestrian sidewalks and shall neither block nor be placed within the sidewalk in any way. The Small Cell Equipment's height, width, length and placement should be as inconspicuous and as visually compatible with its context as practicable.

943.26 DESIGN SPECIFICATIONS FOR CABLES

(a) All cables, conduit and wiring shall be located inside conduit and inside the Wireless Support Structure or an equipment cabinet.

(b) Excess cables and wiring shall not be spooled, coiled or otherwise stored on the exterior of the Wireless Support Structure unless within an enclosure. Cables shall not be externally visible.

943.27 DESIGN SPECIFICATIONS FOR ELECTRICAL METERS

(a) Facilities Operators shall use flat-rate electric service when available in order to eliminate the need for a meter.

(b) If a meter is required, then Facilities Operators shall use the smallest and least intrusive electric meter available. Whenever permitted by the electric service provider, the electric meter shall be painted to match the Wireless Support Structure.

943.28 DESIGN SPECIFICATIONS FOR UTILITY LINES

Service lines shall be underground to avoid additional overhead lines. The underground cables and wires must transition directly into the Wireless Support Structure base without any external junction box.

943.29 DESIGN SPECIFICATIONS FOR REPLACEMENT OF WIRELESS SUPPORT STRUCTURES

(a) Unless otherwise determined by City Manager or designee, a Facilities Operator shall be required to replace an existing Wireless Support Structure in the following circumstances:

- (1) The Wireless Support Structure upon which the Applicant has proposed to Collocate Small Cell Equipment is deemed incapable of bearing the added weight of the Small Cell Equipment; or
- (2) An existing Wireless Support Structure is located within one hundred (100) feet of the proposed site of a new Wireless Support Structure but the existing Wireless Support Structure is incapable of bearing the additional weight of the Small Cell Equipment.

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(b) Designs for replacement of Wireless Support Structures shall be as architecturally similar as possible to the existing Wireless Support Structure to be replaced unless otherwise approved by the City.

- (1) All luminaire mast arms shall be the same length, arch, and style as the original luminaire arm, unless otherwise specified by the City.
- (2) The City may require the Facilities Operator to install a new metal Wireless Support Structure rather than a new wood support structure.

(c) Except in AA and A Single-Family Residential Districts, B Two-Family Residential Districts, and MF-1 Multiple-Family Residential District zoning districts, the overall height of a replacement Wireless Support Structure, including proposed Collocated antenna, shall not be more than forty (40) feet in height above ground level. The overall height of a replacement Wireless Support Structure, including proposed Collocated antenna, shall not be more than thirty-five (35) feet in height above ground level in AA and A Single-Family Residential Districts, B Two-Family Residential Districts, and MF-1 Multiple-Family Residential District zoning districts so long as there is no Wireless Support Structure or utility pole taller than thirty feet located within three-hundred (300) feet of the location of the proposed replacement Wireless Support Structure. Unless technologically infeasible, all Small Cell Equipment, except for antennas and radios, shall be encapsulated within the Wireless Support Structure.

(d) All existing signs, traffic signals, emergency signal detection units, video detection cameras, video cameras, crosswalk service buttons, crosswalk signals, and any other pedestrian or traffic devices shall be reinstalled or replaced with new units by the Facilities Operator at no cost to the City.

(e) The concrete Wireless Support Structure foundation for the original Wireless Support Structure shall be removed either partially or completely by the Facilities Operator as instructed by the City.

- (1) If partially removed, the original Wireless Support Structure foundation shall be removed to a level that is twelve (12) inches below the existing grade and covered with four (4) inches of one-half ($\frac{1}{2}$) inch to three-quarter ($\frac{3}{4}$) inch rocks. The remaining eight (8) inches shall be topsoil.
- (2) If the entire original Wireless Support Structure foundation must be removed, then all foundation materials (concrete, rebar, metals, bolts, etc.) shall be removed. The Director of Planning shall determine the appropriate type of backfill material and compaction required in landscaped areas.

943.30 DESIGN SPECIFICATIONS FOR NEW WIRELESS SUPPORT STRUCTURES

(a) New Wireless Support Structures shall be designed and constructed to accommodate Small Cell Equipment from at least two (2) wireless service providers on the same Wireless Support Structure.

(b) New Wireless Support Structures shall maintain a distance of three hundred (300) feet from existing monopoles, or utility poles unless otherwise determined by the City Manager or designee.

(c) Unless technologically infeasible, all Small Cell Equipment, except for antennas and radios, shall be encapsulated within the Wireless Support Structure.

(d) In residential zoning districts, new Wireless Support Structures shall be located at the shared property line between two residential parcels near where the parcels intersect the Right-of-Way.

(e) In commercial zoning districts, new Wireless Support Structures shall be located between tenant spaces, storefront bays, or adjoining properties at the shared property lines near where the parcels intersect the Right-of-Way.

(f) In park zoning districts, new Wireless Support Structures shall be located in the least visible location practicable, as determined by the City Manager or designee.

(g) New Wireless Support Structures shall not interfere with any metered parking space.

(h) A new Wireless Support Structure shall not be located in front of a building entrance or exit.

(i) Except in the AA and A Single-Family Residential Districts, B Two-Family Residential Districts, and MF-1 Multiple-Family Residential District zoning districts, the overall height of a new Wireless Support Structure, including proposed Collocated antenna, shall not be more than forty (40) feet in height above ground level. The overall height of a new Wireless Support Structure, including proposed Collocated antenna, shall not be more than thirty-five (35) feet in height above ground level in the AA and A Single-Family Residential Districts, B Two-Family Residential Districts, and MF-1 Multiple-Family Residential District zoning districts so long as there is no Wireless Support Structure or utility pole taller than thirty feet located within three-hundred (300) feet of the location of the proposed new Wireless Support Structure.

(j) The City may require the Facilities Operator to install a metal Wireless Support Structure rather than a wood Wireless Support Structure. Unless otherwise specified by the City, new wood Wireless Support Structures are prohibited in the following zoning districts:

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- (1) All residential zoning districts; and
- (2) All commercial zoning districts.

(k) Facilities Operators shall be discouraged from installing a new Wireless Support Structure within one hundred (100) feet of a building designated to be of historic importance under local, state or federal laws.

943.31 HISTORIC DISTRICT DESIGN GUIDELINE REGULATIONS

Except antennas, all Small Cell Equipment to be located in the Right-of-Way in a Historic District including, but not limited to, Ambler Heights Historic District, Euclid Golf Historic District, Euclid Heights Historic District, Fairhill Road Village Historic District, Fairmount Boulevard Historic District, Forest Hill Historic District, Herrick Mews (Overlook Road Carriage House) Historic District, Inglewood Historic District, Mayfield Heights Historic District, Shaker Farm Historic District, and Shaker Village Historic District, Nela Park Historic District, shall be located in an underground vault or shall be subject to such reasonable, technologically feasible, and non-discriminatory design or concealment measures as the City may specify, as long as such measures do not have the effect of prohibiting the Facilities Operator's provision of service. Such measures are not considered part of the small cell facility for purposes of facility size restrictions in this Chapter. A waiver submitted pursuant to Section 943.32(d) will be considered if it is shown to be technologically infeasible.

943.32 UNDERGROUND AREA DESIGN GUIDELINE REGULATIONS

(a) Subject to subsection (b), a Facilities Operator shall locate its Facilities underground in an Underground Area.

(b) A Facilities Operator may replace an existing Wireless Support Structure or Collocate Small Cell Facilities on an Existing Wireless Support Structure even if the Wireless Support Structure is located in an Underground Area.

(c) A Facilities Operator shall not install a new Wireless Support Structure in an Underground Area.

(d) An Operator may apply to the City Manager or designee for a waiver of the underground placement requirement if the Operator is unable to achieve its service objective under the following circumstances:

- (1) From a location in the public Right-of-Way where the prohibition does not apply;
- (2) From a utility easement the service provider has the right to access; and

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- (3) From other suitable locations or structures made available by the City at reasonable rates, fees, and terms.

(e) Submission of a waiver pursuant to Subsection (d) herein is subject to the Facilities Operator's agreement to toll the timeframes set forth in Subsection 943.08(a) of the Codified Ordinances by fourteen (14) days.

943.99 PENALTIES; EQUITABLE REMEDIES.

(a) Criminal Penalties. Any Person found guilty of violating, disobeying, omitting, neglecting or refusing to comply with any of the provisions of this Chapter shall be guilty of a misdemeanor of the fourth (4th) degree. A separate and distinct offense shall be deemed committed each day on which a violation occurs or continues.

(b) Civil Violations and Forfeiture.

- (1) In lieu of the criminal penalties set forth above, the City Manager may make an initial finding of a civil violation by the Service Provider for violating, disobeying, omitting, neglecting or refusing to comply with any of the provisions of this Chapter.
- (2) The Civil Forfeiture shall be in an amount payable to the City of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for each offense. A separate and distinct offense shall be deemed committed each day on which a violation occurs or continues.
- (3) An action for civil forfeiture shall be commenced by providing the Service Provider with written notice describing in reasonable detail the Service Provider's alleged violation of one or more provisions of this Chapter and the amount of the penalty that will be assessed against it.
- (4) The Service Provider shall have fifteen (15) days subsequent to receipt of the notice of violation in which to correct the violation before the City may assess penalties against the Service Provider. The time in which to cure the violation may be extended by the City if additional time is required to correct the violation; provided that the Service Provider commences corrective action within seven (7) days of the notice of violation and proceeds with reasonable diligence.
- (5) The Service Provider may dispute the alleged violation by providing the City with written notice within five (5) days of receipt of the notice of violation, setting forth in reasonable detail the reasons for its dispute. The City shall set a date for hearing of the alleged violation no sooner than

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thirty (30) days and no later than sixty (60) days from receipt of the notice of dispute.

- (6) The City shall issue a written decision on the Service Provider's alleged violation within thirty (30) days of the hearing, which decision shall be final and subject to the administrative appeal procedures under Ohio law. If the City finds after hearing that the alleged violation(s) did occur, the penalty shall be assessed starting fifteen (15) days from the notice of violation and shall continue until the violation has been corrected.

(c) Other Remedies. Nothing in this Chapter shall be construed as limiting any judicial remedies that the City may have, at law or in equity, for enforcement of this Chapter.