

CITY OF MIDDLEBURG HEIGHTS, OHIO

Ordinance No. 2024- 88

Introduced By: Mr. Ference

Co-Sponsors: Mr. Bortolotto, Mr. Sage

**AN ORDINANCE
AMENDING VARIOUS SECTIONS
OF THE MIDDLEBURG HEIGHTS ZONING CODE**

WHEREAS, the Zoning & Building Code Committee of Council has reviewed the request and pursuant to Section 1123.03 (d) (1) of the Middleburg Heights Zoning Code has requested preparation of zoning amendment legislation; and

WHEREAS, pursuant to Section 10.02 (d) of the Charter of Middleburg Heights, and Section 1123.03 (e) of the Middleburg Heights Zoning Code, such legislation shall be referred to the Planning Commission for its consideration and recommendation; and

WHEREAS, pursuant to Section 10.02 (d) of the Charter of Middleburg Heights and Section 1123.03 (f) (7) of the Middleburg Heights Zoning Code, Council shall establish a time for a public hearing on zoning matters after action by the Planning Commission.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MIDDLEBURG HEIGHTS, STATE OF OHIO, AS FOLLOWS:

Section 1: That Section 1131.12(a)(1) shall be amended to read as follows:

1131.12 ~~RESIDENTIAL~~ DESIGN REVIEW BOARD.

(a) Establishment and Purpose. The ~~Residential~~ Design Review Board is hereby established. The purpose of the Board is to review and decide upon design waiver applications seeking relief from a site design guidelines or architectural design guidelines ~~and other standards~~ as set forth in this Chapter.

(1) Design waiver jurisdiction. The Board shall have design waiver jurisdiction over residential site design or architectural design standards applied to a single-family detached dwelling or lot located in a R1-A, R1-C, R2-F, RMF, SF, ~~P-I, PMU, GB and O~~ zoning district and certain residential fence standards as set forth in Section 1157.05.

Section 2: That Section 1149.05 shall be amended by removing the parking stall diagrams since they reference dimensions that were changed in previous edits.

Section 3: Section 1157.05(c)(2) shall be amended to read as follows:

(c) (2) Residential Fence Placement and Height Standards. ~~These fence placement standards shall apply to fences, walls, and similar screening~~

~~devices on a lot serving any detached single-family dwelling or two-family dwelling.~~

A. Front yards in interior lots. No fence or wall shall be permitted along a side lot line or front lot line in the front yard of any interior lot.

B. Front yards in corner lots.

1. Landscape features within a triangle formed between points on the front and side lot lines within thirty-five feet from their intersection shall be maintained to a height not more than two and one-half feet above the curb level.
2. A fence is permitted in the front yard of a corner lot to a maximum height of four feet and when located no closer than three feet to the nearest edge of the sidewalk.
3. A fence is permitted in the front yard of a corner lot to a maximum height of five feet and when located no closer than fifty percent (50%) of the dwelling side yard setback distance measured from the edge of the sidewalk.

C. Rear yards in interior and corner lots.

1. A fence or wall shall be permitted along a side yard or rear yard lot line to a height not more than six feet above the finished grade. For the purpose of this section, a “solid fence” shall be defined as any fence design having less than 50% open area.
2. A solid fence in a rear yard is permitted up to a height of six feet (6’).

D. Side yards in interior and corner lots.

1. No fence shall be permitted in a side yard unless an exterior door is located on the side of the dwelling. When a side exterior door is present, the fence shall extend no more than two feet beyond the door. In no instance shall a side yard fence be located closer than fifteen feet to the front building wall face of the dwelling.
2. When a fence is permitted in a side yard, the fence may be constructed up to a height of six feet.

Section 4: That Section 1141.02(a) shall be amended to read as follows:

- (a) General Standards for All Accessory Uses and Structures. All accessory uses, **accessory buildings**, and accessory structures **located in any zoning district shall conform to the following general standards set forth in this subsection (a):**

Section 5: That Section 1157.02(a) shall be amended to read as follows:

- (a) Corner Lots. On corner lots, where lots have frontage on more than one public right-of-way, the required front yard shall be provided on both streets and shall **also include one side yard, and one rear yard as described in the Definitions Chapter. The remaining lot line(s) shall comply with the side yard requirements:**

Section 6: That Section 1161.01(5) shall be amended to read as follows:

(5) "Adult Family Home." Shall mean a residence or facility, licensed by an agency of the State of Ohio, that provides accommodations from three to five unrelated adults and also provides supervision and personal care for at least three persons. ~~residence or facility that provides accommodations to three to five unrelated adults and supervision and personal care services to at least three of those adults.~~ Such adult family homes shall be required to comply with area, height, yard, and architectural compatibility requirements that are uniformly imposed upon all single-family residences within the residential zoning district.

Section 7: That Section 1161.01(306) shall be amended to read as follows:

(306) "Senior Care Facility." Any place or abode, building, institution, residence, or home used for the reception and care for ~~a consideration of three or more~~ persons ~~who by reason of age or mental or physical infirmities are not capable of properly caring for themselves, or~~ who are fifty-five years of age or over and for which a license, if necessary, has been issued by the Ohio Department of Public Welfare or other appropriate agency. This land use includes commonly used references such as assisted living facilities and nursing home facilities. Skilled care nursing services are typically provided in a senior care facility. A "hospital" land use is not covered under this definition.

Section 8: That Section 1153.21 (a) shall be amended to read as follows:

- (a) Incidental Sign. A sign that is located outside of the right-of-way which is generally instructional or informational. ~~Contains no commercial message.~~ The types of permitted incidental signs in this category may include traffic control and other directional signs, address signs, hours of operation signs, open/close signs, parking or loading control signs, method of payment accepted, signs indicating the location of telephones or emergency equipment and similar instructional or informational signs.

Section 9: That Section 1131.11(k)(3) shall be amended to read as follows:

- (3) Front landings with more than ~~two~~ **four** risers shall have railings.

Section 10: That Section 1131.08(f)(5) shall be amended so as to add a new subsection to read as follows:

- C. **R2-F cluster zoning district. A minimum setback of eighteen feet from the rear lot line shall be maintained.**

Section 11: That Section 1151.10 entitled "STREET FRONTAGE LANDSCAPING." shall be repealed.

Section 12: That Section 1147.07(d) shall be amended to read as follows:

- (d) Light Pole Height. All freestanding light poles and fixtures shall not exceed ~~twenty~~ **twenty five** feet when located in any front yard or side yard nor exceed ~~twenty-five~~ feet when located in any rear yard area.

(1) **Existing Light Pole Height.** New freestanding light poles may be erected in a front or side yard up to a maximum of 25 feet if the site has existing light poles exceeding 20 feet. One or more of the existing light poles must remain operational along with the addition of the new light poles.

Section 13: That Section 1137.10(d)(1)(C) shall be amended to read as follows:

(C) The following exterior building materials are prohibited: vinyl or aluminum siding, plywood, corrugated **and** metal panels. ~~And EIFS.~~

Section 14: That Sections 1153.08(b)(1)(A) and 1153.08(b)(3)(A) shall be amended to read as follows:

(b)(1)(A) Permitted nonresidential uses may have one of each of the following types of signs; ~~wall sign~~; projecting sign, ground mounted sign and temporary construction sign. In addition, each nonresidential use shall be permitted one temporary commercial sign, up to two separate window signs and one portable sandwich sign on the premises and up to two canopy signs.

(b)(3)(A) **Wall Signs.** A nonresidential use located in a free-standing building shall be permitted two wall signs consisting of a primary wall sign and a secondary wall sign. A use located in an end unit of a multi-tenant building may be permitted a primary wall sign and secondary wall sign to be placed on the side of the building.

Section 15: That Section 1129.07 “Land Use Matrix Chart” shall be amended so as to add Commercial Recreation (indoor & outdoor) as a conditional use in the GI zoning district as follows:

Land Use Description	R1-A	R1-C	R2-F	RMF	RSL	GB	PMU	O	GI	P-I
Recreation										
Commercial Recreation (indoor & outdoor)	-	-	-	-	-	C	-	-	C	-

Section 16: That Section 1141.02(b)(10) shall be repealed so as to permit a shed style roof on an accessory building in residential zoning districts.

Section 17: That Section 1131.11(g) shall be amended to read as follows:

(g) **Antennas.** Television satellite dishes in excess of eighteen inches in diameter are not permitted. No satellite dish visible from the street is allowed unless permitted by the Zoning Code. **Ground mounted satellite dishes shall be prohibited.**

~~(1) Ground mounted satellite dish. A ground mounted satellite dish may be placed in a side yard or rear yard.~~

~~(2) Screening required. Any ground mounted satellite dish partially or fully viewable from any public or private street shall be fully screened with vegetation or other suitable screening method approved by the Building Commissioner.~~

~~(3) Yard setback. Any ground mounted satellite dish shall be set back a minimum of ten feet from any side yard line or rear yard line.~~

Section 18: That Section 1125.04 shall be repealed as the revised zoning code already provides a list of the various items that fall under the authority of the Planning Commission (Section 1125.02).

Section 19: Sections 1137.10(a)(3)(A) and 1137.10(a)(3)(B) shall be amended to read as follows:

(a)(3)(A) All new site development and site expansion projects requiring a development plan review in the P-I, GB, O and PMU. **Planning Commission shall have the authority to review and decide upon compliance of these architectural design guidelines when the proposed building improvements are part of a development plan review.**

(a)(3)(B) All existing **establishments buildings** located in a P-I, GM, O and PMU zoning districts seeking to make any structural improvements, façade improvements or changes to any glass features. The **City Architect Building Commissioner** shall have the authority to review and decide upon compliance of the architectural guidelines provided for in Sections 1137.10(b), (c) and (d). ~~all proposed improvements to existing buildings and may provide a design waiver when the application of one or more design guidelines are physically unable to be satisfied.~~

Section 20: That Section 1129.07 “Land Use Matrix Chart” shall be amended so as to add Tobacco Retailer as a conditional use in the GB zoning district as follows:

Land Use Description	R1-A	R1-C	R2-F	RMF	RSL	GB	PMU	O	GI	P-I
Retail & Office										
Tobacco Retailer	-	-	-	-	-	C	-	-	-	-

Section 21: That Section 1143.04 shall be amended to add a new subsection to read as follows:

(cc) **Tobacco Retailer.**

(1) **No more than a total of three (3) "tobacco retailers" shall be permitted to operate within the city limits of Middleburg Heights. This limit includes legally nonconforming tobacco retailer establishments and new tobacco retailer establishments seeking to operate after the adoption date of this Section.**

(2) **No new tobacco retailer shall be permitted to operate on a parcel which is within one thousand (1,000) feet of a parcel occupied by another tobacco retailer, whether located within or outside the jurisdiction of the City of Middleburg Heights. Minimum spacing shall be measured in a straight line from parcel boundary to parcel boundary.**

- (3) No new tobacco retailer shall be permitted to operate on a parcel which is within one thousand (1,000) feet of a parcel containing youth-oriented areas to include: public or private elementary, middle, junior high, high school, childcare facilities, playground, park, youth center, library or public or private recreation facilities, whether located within or outside the jurisdiction of the City of Middleburg Heights. Minimum spacing shall be measured in a straight line from parcel boundary to parcel boundary.
- (4) Outdoor storage or display of merchandise shall not be permitted.
- (5) Owners, operators or managers of the proposed tobacco retailer use shall have a record of continued compliance with all City, County, and State regulations, laws, and requirements, for this property or any other property they are associated within the City of Middleburg Heights.

Section 22: That Chapter 1161 shall be amended to add a new definition for "Tobacco Retailer" to read as follows:

"Tobacco Retailer." Any establishment that devotes ten (10) percent or more of floor area or display area to the sale, distribution, delivery, offering, or furnishing of tobacco products and/or derives fifty-one (51) percent or more of gross sales receipts from the sale of tobacco products. Tobacco products shall mean: (1) Any product containing, made of, or derived from tobacco or nicotine that is intended for human consumption or is likely to be consumed, whether inhaled, absorbed, or ingested by any other means, including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus; (2) Any electronic smoking device and any substances that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine; or (3) Any component, part, or accessory of (1) or (2), whether or not any of these contain tobacco or nicotine, including but not limited to liquids used in electronic smoking device, filters, rolling papers, blunt or hemp wraps, and pipes. The term "tobacco product" excludes any product that has been specifically approved by the United States Food and Drug Administration (FDA) for sale as a tobacco/smoking cessation product or for other medical purposes, where such product is marketed and sold solely for such an approved purpose."

Section 23: That Section 1131.09(b) shall be amended to add a new subsection to read as follows:

- (7) An applicant for a legal nonconforming residential parcel seeking to convert or remove all or a portion of the existing garage parking spaces shall provide for the same number of on-site garage parking spaces after the proposed improvements. However, if the legal nonconforming property provided three or more garage parking spaces prior to the improvements, the property may be permitted to reduce the number of garage parking spaces down to two.

Section 24: It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its

committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Chapter 107 of the Middleburg Heights Code and Section 121.22 of the Ohio Revised Code.

Passed: 2/25/25

David Bortolotto
President of Council

Attest: M. Meola
Clerk of Council

Approved On: 2-26-25

Presented to Mayor: 2/26/25

Matthew Casella
Mayor

	Yea	Nay
Bortolotto	<u>X</u>	_____
Ali	<u>X</u>	_____
Sage	<u>X</u>	_____
Meany	<u>X</u>	_____
McGregor	<u>X</u>	_____
Ference	<u>X</u>	_____
Zakel	<u>X</u>	_____

I, Mary Ann Meola Clerk of the Council of the City of Middleburg Hts., Ohio, hereby certify that Ord. 2024-88 adopted by the Council of the City of Middleburg Hts., on 2/25/25 was posted for a period of fifteen days, beginning 2/26/25 and remained so posted for fifteen days at the two posting places as designated by Charter.

Mary Ann Meola
Clerk

CERTIFICATE

I, Mary Ann Meola Clerk of Council of the City of Middleburg Heights, Ohio, do hereby certify that the foregoing is a true and accurate copy of Ord. 2024-88 passed on the 25th day of February 2025 by said Council.

Mary Ann Meola
Clerk of Council

THE STATE OF TEXAS,
COUNTY OF _____

I, _____, County Clerk of said County, do hereby certify that _____ is the true and correct copy of _____ as the same appears from the records of said County.

County Clerk

CERTIFICATE

of _____ (Name of County) _____

October 30, 2024

To: Keith Foulkes
Middleburg Heights Building Commissioner

From: Jay Stewart
Stewart Land Use

Re: Summary of Proposed Zoning Code Edits

This memo is intended to provide a summary of the proposed zoning code edits.

1. **Section 1131.12(a)(1)(A)**
Clarify "Section 1131.12(a)(1)(A)" to change the name of the "Residential Design Review Board" to "Design Review Board" and clarify that the Board has jurisdiction to provide a waiver for site design guidelines or architectural design guidelines in the GB, O, P-i and PMU zoning districts in addition to the residential districts.

1131.12 ~~RESIDENTIAL~~-DESIGN REVIEW BOARD.

- (a) **Establishment and Purpose.** The ~~Residential~~-Design Review Board is hereby established. The purpose of the Board is to review and decide upon design waiver applications seeking relief from a site design guidelines or architectural design guidelines **and other standards** as set forth in this Chapter.
 - (1) **Design Waiver Jurisdiction.** The Board shall have design waiver jurisdiction over residential site design or architectural design standards applied to a single-family detached dwelling or lot located in a R1-A, R1-C, R2-F, RMF, SF, ~~P-I, PMU~~, GB and O zoning district and certain residential fence standards as set forth in Section 1157.05.
2. **Section 1149.05**
Remove the parking stall diagrams in 1149.05 since they reference a few dimensions that are now changed as of the last round of edits.
 3. **Section 1157.05(c)(2)**
Remove the duplicate text found in Section 1157.05(c)(2) below.

"(c) Single-Family and Two-Family Fence Design and Placement and Height Standards. These fence placement standards shall apply to fences, walls, and similar screening devices on a lot serving a detached single-family dwelling or two-family dwelling.

- (1) All fences shall be installed so finished surface sides face toward adjacent properties.

~~(2) Residential Fence Placement and Height Standards. These fence placement standards shall apply to fences, walls, and similar screening devices on a lot serving any detached single-family dwelling or two-family dwelling.~~

- (A) Front Yards in Interior Lots. No fence or wall shall be permitted along a side lot line or front lot line in the front yard of any interior lot. "

4. **Section 1141.02(a)**

Clarify that this subsection (a) applies to both residential and non-residential accessory uses.

- (a) General Standards for All Accessory Uses and Structures. All accessory uses, ~~accessory buildings~~, and accessory structures ~~located in any zoning district~~ shall conform to the following general standards set forth in this subsection (a):

5. **Section 1157.02(a)**

Clarify the yard requirements for a corner lot.

- (a) Corner Lots. On corner lots, where lots have frontage on more than one public right-of-way, the required front yard shall be provided on both streets and shall ~~also include one side yard and one rear yard as described in the Definitions Chapter. the remaining lot line(s) shall comply with the side yard requirements.~~

6. **Chapter 1161: Definition for "Adult Family Home"**

Remove a duplicate sentence in the "Adult Family Home" definition:

(5) "Adult Family Home." Shall mean a residence or facility, licensed by an agency of the State of Ohio, that provides accommodations from three to five unrelated adults and also provides supervision and personal care for at least three persons. ~~residence or facility that provides accommodations to three to five unrelated adults and supervision and personal care services to at least three of those adults.~~ Such adult family homes shall be required to comply with area, height, yard, and architectural compatibility requirements that are uniformly imposed upon all single-family residences within the residential zoning district.

7. **Chapter 1161 Definitions**

Clarify the definition for "Senior Care Facility."

(306) "Senior Care Facility." Any place or abode, building, institution, residence, or home used for the reception and care for ~~a consideration of three or more~~ persons ~~who by reason of age or mental or physical infirmities are not capable of properly caring for themselves,~~ ~~or~~ who are fifty-five years of age or over and for which a license, if necessary, has been issued by the Ohio Department of Public Welfare or other appropriate agency. This land use includes commonly used references such as assisted living facilities and nursing home facilities. Skilled care nursing services are typically provided in a senior care facility. A "hospital" land use is not covered under this definition.

8. **Section 1153.21(a)**

Make edits to the incidental sign section that clarifies what qualifies as an incidental sign.

- (a) Incidental Sign. A sign that is located outside of the right-of-way which is generally instructional or informational. ~~contains no commercial message.~~ The types of permitted incidental signs in this category may include traffic control and other directional signs, address signs, hours of operation signs, open/close signs, parking or loading control signs, method of payment accepted, signs indicating the location of telephones or emergency equipment and similar instructional or informational signs.

9. **Section 1131.11(k)(3)**
 Increase the number of risers requiring a railing in a front landing from two to four in order to align with the Building Code.
- (3) Front landings with more than ~~two~~ four risers shall have railings.
10. **Section 1131.08(f)(5)(B)**
 Add a new subsection (A) that will permit a minimum 18' rear yard setback for a deck when located in a cluster development (in the R2-F district).
- (C) R2-F cluster zoning district. A minimum setback of eighteen feet from the rear lot line shall be maintained.
11. **Section 1151.10**
 Remove Section 1151.10 Street Frontage Landscaping" as shown below:
- ~~1151.10 STREET FRONTAGE LANDSCAPING.
 (a) Any project located within P-I, GB, O, or PMU zoning district and meeting the applicability requirements of this chapter shall provide landscaping along the perimeter of the front yard area when abutting any public right-of-way and public or private street.
 (b) A minimum of ten percent (10%) of the front yard area shall be landscaped with a combination of trees, shrubs, planting beds or perennials.
 (c) Street frontage landscaped areas shall contain a minimum of one tree and three shrubs for every twenty-five lineal feet of frontage within the required landscape area.
 (d) The minimum width of any street frontage landscape area shall be six feet and shall be located adjacent to the edge of the public right-of-way or other suitable location as determined by the Planning Commission.
 (e) Required building foundation planting areas as set forth in Section 1151.09 shall not be counted toward the street frontage planting area requirements.~~
12. **Section 1147.07(d)**
 Make edits to this section increasing the permitted height of new exterior light pole / fixtures by five additional feet for both the front/side and rear yard poles. Also, add a provision allowing an applicant to erect new light poles that match existing light poles in the front and side yard areas of a site, even if they exceed the new height limits of 20', with a maximum of 25'.
- (d) Light Pole Height. All freestanding light poles and fixtures shall not exceed twenty ~~fifteen~~ feet when located in any front yard or side yard nor exceed twenty-five feet when located in any rear yard area.
- (1) Existing Light Pole Height. New freestanding light poles may be erected in a front or side yard up to a maximum of 25' if the site has existing light poles exceeding 20' feet. One or more of the existing light poles must remain operational along with the addition of the new light poles.
13. **Section 1137.10(d)(1)(C)**
 Allow EIFS as a permitted exterior building material.
- (C) The following exterior building materials are prohibited: vinyl or aluminum siding, plywood, corrugated ~~and~~ metal panels. ~~and EIFS.~~

14. **Sections 1153.08(b)(1)(A) and 1153.08(b)(3)(A)**
 Increase the permitted number of wall signs in the GB, O, PMU and P-I zoning districts from one wall sign to two wall signs for free standing buildings and the end units of a multi-tenant building.

(b)(1)(A) Permitted nonresidential uses may have one of each of the following types of signs; ~~wall sign~~, projecting sign, ground mounted sign and temporary construction sign. In addition, each nonresidential use shall be permitted one temporary commercial sign, up to two separate window signs and one portable sandwich sign on the premises and up to two canopy signs.

(B) **Wall Signs.** A nonresidential use located in a free-standing building shall be permitted two wall signs consisting of a primary wall sign and a secondary wall sign. A use located in an end unit of a multi-tenant building may be permitted a primary wall sign and secondary wall sign to be placed on the side of the building.

(b)(3)(A) The sign area for a primary wall sign shall not exceed one and one-half square feet per each linear foot of the front building wall, maximum of 100 square feet. The sign area for a secondary wall sign shall not exceed one and one-half square feet per each linear foot of the front building wall, maximum of 50 square feet. In the case of multi-tenant structures, the lineal distance of the front building wall comprising the width of the tenant space only shall be used in this area calculation as depicted in the Wall Sign Area Computation Illustration in this Section.

15. **Section 1129.07 (Land Use Chart)**
 Add "Commercial Recreation (indoor and outdoor)" as a conditional use in the GI General Industrial zoning district.

Land Use Description	R1-A	R1-C	R2-F	RMF	RSL	GB	PMU	O	GI	P-I
Recreation										
Commercial Recreation (indoor & outdoor)	-	-	-	-	-	C	-	-	C	-

16. **Section 1141.02(b)(10)**
 Permit a shed style roof on an accessory building in residential zoning districts.

~~(b)(10) — Shed style roof designs are prohibited for all accessory structures.~~

17. **Section 1131.11(g)**
 Make edits to the residential satellite dish requirements to prohibit ground mounted dishes to better reflect current trends in the market.

(g) **Antennas.** Television satellite dishes in excess of eighteen inches in diameter are not permitted. No satellite dish visible from the street is allowed unless permitted by the Zoning Code. **Ground mounted satellite dishes shall be prohibited.**

- ~~(1) Ground-mounted satellite dish. A ground-mounted satellite dish may be placed in a side-yard or rear yard.~~
- ~~(2) Screening required. Any ground-mounted satellite dish partially or fully viewable from any public or private street shall be fully screened with vegetation or other suitable screening method approved by the Building Commissioner.~~
- ~~(3) Yard setback. Any ground-mounted satellite dish shall be set back a minimum of ten feet from any side-yard line or rear-yard line.~~

18. **Section 1125.04**

Repeal Section 1125.04 which states that "all" building permits must go to the Planning Commission. This Section was brought over from the prior zoning code. The revised zoning code already provides a list of the various items that fall under the authority of the Planning Commission (See Section 1125.02). A literal reading of Section 1125.04 can be interpreted that "all" non-residential building permits must go to the Planning Commission. This has not been the practice of the City in the past, so I am suggesting we repeal Section 1125.04.

~~1125.04 PROCEDURE FOR BUILDING PERMIT APPLICATIONS.~~

~~(a) Submission of Applications to Division of Buildings. Applications for building permits, with accompanying drawings, renderings, data and material samples to be used, shall be submitted to the Division of Buildings. After processing the same, the Building Commissioner shall submit such applications as provided in this section.~~

~~(b) Referral of Applications to Planning Commission. The Building Commissioner shall submit to the Secretary of the Planning Commission all applications for building permits for multifamily, institutional, business, commercial and industrial buildings for Planning Commission review and approval of the proposed use, design, parking setback, yard and any other applicable requirements in conformity with this Zoning Code and any supplementary rules and regulations which have been adopted and published. This requirement shall affect both new construction and alterations or additions to existing buildings of these types.~~

~~(c) Review and Findings. Within seventy-five days after an application for a building permit has been filed with the Secretary of the Planning Commission, or such longer time as is agreed upon by the applicant and the Commission, the Commission shall evaluate the development proposal and shall make a finding either that the proposal complies with regulations, standards and criteria prescribed in this Zoning Code applicable to the proposal, or that the proposal fails to comply with such regulations, standards and criteria, and the Commission shall approve, disapprove or modify such proposal.~~

~~(d) Issuance of Permits. If an application for a building permit is approved by the Planning Commission as required in this section, the Building Commissioner shall issue a building permit.~~

19. **Section 1137.10(a)(3)(A) and Section 1137.10(a)(3)(B)**

Provide authority to the City Architect to review and decide upon compliance with the architectural design guidelines for proposed building projects involving any type of facade and or structural or architectural improvements to an existing building in the

GB, O, PMU and P-1 zoning districts. Any building expansion or new build project going through the Development Plan review process will continue to fall under the jurisdiction of the Planning Commission.

- (a)(3)(A) All new site development and site expansion projects requiring a development plan review in the P-I, GB, O and PMU. **Planning Commission shall have the authority to review and decide upon compliance of these architectural design guidelines when the proposed building improvements are part of a development plan review.**
- (a)(3)(B) All existing **establishments buildings** located in a P-I, GB, O and PMU zoning districts seeking to make any structural improvements, facade improvements or changes to any glass features. The **City Architect Building Commissioner** shall have the authority to review and decide upon compliance of the architectural guidelines provided for in Sections 1137.10(b), (c) and (d). ~~all proposed improvements to existing buildings and may provide a design waiver when the application of one or more design guidelines are physically unable to be satisfied.~~

20. **New Tobacco Retailer Standards.**

This edit would add a new definition for a "tobacco retailer" land use, and designate the use a conditional use within the GB zoning district with conditions. The proposed definition would not apply to certain types of establishments selling tobacco products such as a typical convenience store and grocery store given the percentage of tobacco product sales area (10% of total space) and gross tobacco product sales receipts (51%) thresholds.

Land Use Description	R1-A	R1-C	R2-F	RMF	RSL	GB	PMU	O	GI	P-I
Retail & Office										
Tobacco Retailer	-	-	-	-	-	C	-	-	-	-

New Section 1143.04(aa)

- (aa) **Tobacco Retailer.**
 - (1) No more than a total of three (3) "tobacco retailers" shall be permitted to operate within the city limits of Middleburg Heights. This limit includes legally nonconforming tobacco retailer establishments and new tobacco retailer establishments seeking to operate after the adoption date of this Section.
 - (2) No new tobacco retailer shall be permitted to operate on a parcel which is within one thousand (1,000) feet of a parcel occupied by another tobacco retailer, whether located within or outside the jurisdiction of the City of Middleburg Heights. Minimum spacing shall be measured in a straight line from parcel boundary to parcel boundary.
 - (3) No new tobacco retailer shall be permitted to operate on a parcel which is within one thousand (1,000) feet of a parcel containing youth-oriented areas to include:

public or private elementary, middle, junior high, high school, child care facilities, playground, park, youth center, library or public or private recreation facilities, whether located within or outside the jurisdiction of the City of Middleburg Heights. Minimum spacing shall be measured in a straight line from parcel boundary to parcel boundary.

- (4) Outdoor storage or display of merchandise shall not be permitted.
- (5) Owners, operators or managers of the proposed tobacco retailer use shall have a record of continued compliance with all City, County, and State regulations, laws, and requirements, for this property or any other property they are associated with in the City of Middleburg Heights.

New Definition for "Tobacco Retailer"

"Tobacco Retailer." Any establishment that devotes ten (10) percent or more of floor area or display area to the sale, distribution, delivery, offering, or furnishing of tobacco products and/or derives fifty-one (51) percent or more of gross sales receipts from the sale of tobacco products. Tobacco products shall mean: (1) Any product containing, made of, or derived from tobacco or nicotine that is intended for human consumption or is likely to be consumed, whether inhaled, absorbed, or ingested by any other means, including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus; (2) Any electronic smoking device and any substances that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine; or (3) Any component, part, or accessory of (1) or (2), whether or not any of these contain tobacco or nicotine, including but not limited to liquids used in electronic smoking device, filters, rolling papers, blunt or hemp wraps, and pipes. The term "tobacco product" excludes any product that has been specifically approved by the United States Food and Drug Administration (FDA) for sale as a tobacco/smoking cessation product or for other medical purposes, where such product is marketed and sold solely for such an approved purpose."

21. **Section 1131.09**

Make edits to the residential garage standards to address a growing trend of residential home owners converting all or some of their existing garage space to non-garage functions, such as living areas. This proposed edit addresses these retrofit scenarios by requiring that a residential dwelling shall maintain, at a minimum, the number of existing garage spaces on the lot, up to a total of two spaces. Therefore, if an Applicant decided to go from three garage spaces down to two, that would be permitted. If an Applicant decided to go from two spaces down to one space, or no spaces, that would not be permitted.

New Section 1131.09(b)(7)

- (7) An applicant for a legal nonconforming residential parcel seeking to convert or remove all or a portion of the existing garage parking spaces shall provide for the same number of on-site garage parking spaces after the proposed improvements. However, if the legal nonconforming property provided three or more garage parking spaces prior to the improvements, the property may be permitted to reduce the number of garage parking spaces down to two.