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## **Hogs in the Street: The City Beautiful Club of Cleveland, Tennessee and Nineteenth-Century Urban Land-Use Regulation**

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I am submitting herewith a thesis written by Samuel Doss entitled "Hogs in the Street: The City Beautiful Club of Cleveland, Tennessee and Nineteenth-Century Urban Land-Use Regulation." I have examined the final electronic copy of this thesis for form and content and recommend that it be accepted in partial fulfillment of the requirements for the degree of Master of Arts, with a major in History.

Daniel Feller, Major Professor

We have read this thesis and recommend its acceptance:

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Accepted for the Council:

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Vice Provost and Dean of the Graduate School

(Original signatures are on file with official student records.)

Hogs in the Street: The City Beautiful Club of Cleveland, Tennessee and Nineteenth-Century  
Urban Land-Use Regulation

A Thesis Presented for the  
Master of Arts  
Degree  
The University of Tennessee, Knoxville

Samuel David Doss

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## Abstract

Although land-use and zoning regulation is an inescapable reality for modern development around the world, its history in the United States and the social, legal, and political context from which it emerged remains largely unknown by scholars and the general public alike. The general consensus up to this point has been that comprehensive zoning ordinances and the modern urban planning profession delivered urban America from the primitive and unregulated state that it was in during the nineteenth century and resulted in the orderly built environment of today. Thus, land use zoning, park planning, and public transportation infrastructure were twentieth-century phenomena which would have been impossible in nineteenth-century America. However, this is not the case. Synthesis of primary and secondary sources demonstrate that cities of all sizes regulated urban land use in America during the nineteenth century prior to modern zoning for many of the same purposes as they do today. Safety concerns, health hazards, and promotion of the general public's welfare led governments to dictate what could be built where and how. Furthermore, the specific regulatory controls employed by cities reflected the unique legal, political, and cultural framework of nineteenth-century America.

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## Introduction

According to the United States Census, just over 5% of Americans lived in cities in 1790. That figure would grow to 35% by 1890 and over 75% by 1990 (Table 1).<sup>1</sup> Those figures hint at a fascinating tale, with one obvious conclusion: The United States has become significantly more urbanized over its two hundred-year history. However, noting that trend hardly tells the whole story. The process of widespread urbanization over the course of the nineteenth century was interconnected with other processes that, together, fundamentally transformed American culture, politics, and the physical landscape of the nation itself over the course of the nineteenth century and have continued throughout the twentieth century and up to the present. Thus, understanding America, particularly during the long nineteenth century, roughly the period between the 1780s and the 1910s, requires an understanding of the context in which Americans lived as they experienced these changes.<sup>2</sup>

The oldest and largest American cities such as Boston and New York City grew exponentially during the late eighteenth and early nineteenth centuries as a crop of newer cities such as Chicago rose to join them. The most common factors behind this urban growth were commerce, industrialization, and proximity to transportation such as rivers, harbors, canals, and railroads. In short, most people moved into the cities in search of work. This coincided with widespread economic and industrial development as the United States transitioned from an agrarian society and agriculturally-based economy with relatively few skilled artisans to an

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<sup>1</sup> “Selected Historical Decennial Census Population and Housing Counts,” United States Census Bureau, <https://www.census.gov/population/www/censusdata/hiscendata.html>.

<sup>2</sup> The typical periodization for the long nineteenth century among historians is from 1789 – 1914 and is an adaptation of Fernand Braudel’s long sixteenth century which spanned from 1450 – 1640.

industrial and capitalist wage labor system that drew potential wage-earners to employers who located their operations near infrastructure and development for ease of shipping raw materials and finished products back and forth to other businesses.<sup>3</sup>

Regional migration often followed trends based on social and economic conditions. Following Reconstruction, around 90% of all African-Americans lived in rural areas of the South. Beginning in the 1910s, a phenomenon known as the Great Migration began wherein African-Americans moved in large numbers to urban areas in the Northeast, Midwest, and Western United States in search of opportunities for employment and equality. Those who remained in the deep South also largely became urbanized in cities like Birmingham by the 1950s. Following the Civil Rights movement, a slower but equally significant reverse trend also occurred where many African-Americans moved to urban areas of the South leading to significant growth in cities such as Atlanta and Houston.<sup>4</sup>

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<sup>3</sup> John Ashworth, Seth Rockman, Charles Sellers, Sean Wilentz, and others have produced works from a variety of perspectives regarding the “Market Revolution” and its economic and social implications. The physical and spatial elements of the “market,” meaning the distances that resources and products travelled to and from various stops on their way to the end client, have received somewhat less scholarly attention. However, their role in the development of these markets and its increasing significance in people’s lives as Americans largely became more dependent on wages that they exchanged for goods and services that they could not provide for themselves is readily apparent.

<sup>4</sup> For more information on migration in America since 1865, particularly the African-American experience, see: James Grossman, *Land of Hope: Chicago, Black Southerners, and the Great Migration* (Chicago: University of Chicago Press, 1989); Steven Hahn, *A Nation Under Our Feet: Black Political Struggles in the Rural South from Slavery to the Great Migration* (Cambridge, Mass.: Belknap Press, 2003); Maurice Hobson, *The Legend of the Black Mecca: Politics and Class in the Making of Modern Atlanta* (Chapel Hill: University of North Carolina Press, 2017); Nell Irvin Painter, *Exodusters: Black Migration to Kansas after Reconstruction* (New York: Knopf, 1976).

Economic opportunities and development began to transform the South to some extent as well. The post-Reconstruction “New South” largely focused on industrial agriculture that depleted the soil’s nutrients and drove the working class, particularly African-Americans, into dependent relationships with employers prohibiting diversification in the local economy. Federal investment brought the region into modernity through infrastructure and other stimuli. However, prosperity did not trickle down to the less fortunate members of society proportionally. The influx of capital, too often, merely widened the long-standing inequalities that had existed in some form since the slave economy of the Old South. Development such as the construction of hydro-electric dams also led to dislocation for the poor and working class of all ethnicities. Unregulated industry then further negatively affected the environment that was already damaged by decades of monocultural emphasis on cotton and corn production. Those trends coupled with a deep-seated anti-regulation political sentiment made the South home to many of the nation’s worst cases of pollution and environmental damage as well as the rampant economic inequality and dependence upon federal funding that persist in some forms to this day.

Urbanization also brought new environmental problems to urban communities, however. Increased population density led to greater risk of fire and disease and often took a heavy toll on the physical conditions of a city. Industrialization, in particular, led to perceived degradation of both the physical landscape of a city and the health of its inhabitants through pollution and general uncleanliness. Numerous European artists and groups, being among the first to experience industrialization firsthand, responded to this trend earlier in the long nineteenth century by evoking “pastoral” or natural themes and settings in their works as a fantastical escape from the urban reality. The German artist, Caspar David Friedrich (1774-1840), for instance, painted many outdoor landscapes featuring vast panoramic views of natural scenes.



Ludwig Van Beethoven (1770-1827) musically reconstructed several natural scenes featuring birds, flowing water, and a thunderstorm in his *Symphony no. 6*, often called the *Pastoral Symphony*, though Beethoven himself did not use that title.<sup>5</sup> Likewise, the English poet William Wordsworth (1770-1850) wrote of nature and simplistic, rural lifestyles as preferable to city life because “in that condition of life our elementary feelings co-exist in a state of greater simplicity, and, consequently, may be more accurately contemplated, and more forcibly communicated...”<sup>6</sup>

In America, this same artistic fascination with recreating distinctly rural character to escape urban conditions also extended to architecture and design. One of the most influential movements that emerged in response was the City Beautiful movement, rising to popularity in the 1890s and early 1900s. Generally, the City Beautiful philosophy valued “natural design” over all else which, despite its apparent oxymoronic connotations, essentially meant recreating parts of nature within the built environment. In essence, the movement sought to improve quality of life in cities by providing more open green spaces for relaxation, fellowship, and emotional and physical health.<sup>7</sup>

Urbanization and its effects, then, while not necessarily integral to every aspect of American development throughout its history, have likely affected it in some way. The growth of cities coincided with the market revolution and development of the industrial economy. Thus,

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<sup>5</sup> Owen Jander, “The Prophetic Conversation in Beethoven’s ‘Scene by the Brook,’” *The Musical Quarterly* 77, no. 3. (Autumn, 1993): 539-541.

<sup>6</sup> William Wordsworth, “Preface to Lyrical Ballads,” in *Sources of the Making of the West: Peoples and Cultures vol. II: Since 1500*. Edited by Katharine J. Lualdi. Boston: Bedford/St. Martin’s, 2012. 145.

<sup>7</sup> William H. Wilson, *The City Beautiful Movement* (Baltimore, Maryland: The Johns Hopkins University Press, 1989).

understanding urbanization, its sub-themes, and their effects on American culture, politics, economics, and physical environment is crucial for understanding American development both during the long nineteenth century and afterwards, up to present events. In particular, the urbanization of the United States during the long nineteenth century, as a broader theme, has enthralled historians of various interests ranging from labor history to national politics. Generations of scholars have investigated the legal, cultural, and economic contexts of nineteenth-century America and their relationship with urbanization. Deferential synthesis of their incredibly broad historiographical contributions is a crucial starting point for understanding any related subject.

Although land-use and zoning regulation is an inescapable reality for modern development around the world, its history in the United States and the context from which it emerged is largely unknown. Scholars writing on the subject generally begin their studies in the early twentieth century with the first comprehensive zoning ordinances and credit economic conditions of the market with organizing physical spaces and land use before that time. However, urban land use in America was regulated prior to modern zoning for many of the same purposes as it is today. As is true today, safety concerns, health hazards, and promotion of the general public's welfare led governments to dictate what could be built where and how. Furthermore, these regulatory controls reflected the unique legal, political, and cultural framework of nineteenth-century America.

Land use in the growing cities of the United States had a profound effect on the built environments within which over half of Americans would live and work by the close of the nineteenth century. While comprehensive zoning ordinances are a twentieth-century phenomenon, the earliest of which did not emerge until 1916, state and municipal governments

of the late eighteenth through nineteenth centuries heavily regulated urban land use through a variety of coercive and passive mechanisms.<sup>8</sup> These were not national policies or otherwise externally imposed ordinances. To think of land use regulation as a facet of “big government” would suggest a level of central power within the federal government that, frankly, has never existed. Building, fire, mechanical, electrical, plumbing, land use, and even health codes, in fact, are adopted and enforced at the state and municipal levels of government to this day.

Understanding the nature of these local and state governments, then, especially as they differ from the federal government, is crucial for recognizing the role of land use regulations in urban development. While the federal government’s power is limited legally by the Constitution and ideologically by the principles of classical liberalism in order to preserve the rights of individuals, state and local governments are not. Jurisdictions within urban America, to varying extents, have always featured a high degree of regulation that preserved the public health, safety, and welfare above all else, even if it required occasional modification of the rights of individuals to meet that end. Urban land use was no exception as nuisance abatement, fire prevention, health concerns, and various other public issues led government to intervene in the use of privately owned lands on behalf of the public. However, these measures also emerged in response to the needs of a growing urban community, thus most examples are from densely populated areas.

Beyond the structural changes to municipal land-use controls that marked the end of the long nineteenth century, such as the emergence of professional planning and comprehensive zoning ordinances, cultural shifts also contributed to this periodization. Perhaps most

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<sup>8</sup> Peter Hall provides an excellent overview of the emergence of professional planning and comprehensive zoning in *Cities of Tomorrow*. See Peter Hall, *Cities of Tomorrow: An Intellectual History of Urban Planning and Design in the Twentieth Century* (New York: Basil Blackwell, 1988), Chapters Five and Ten.

conspicuously, automobile use and, eventually, dependency increased in the United States over the decades following the end of the City Beautiful movement. Furthermore, growing centralization of the automobile to American life came to dominate nearly every aspect of city planning and fundamentally changed the paradigm within which cities and towns solved problems of urbanization. The themes of suburbanization and the shift to car-centric communities, in many ways, exemplify twentieth-century American culture, much as urbanization did for the long nineteenth. The lens of the ubiquitous automobile, then, is one that reveals a great deal of context behind many historical questions of twentieth-century America, particularly regarding land-use planning and regulation.<sup>9</sup>

That is not to say that other processes at work within the overall theme of urbanization during the nineteenth century ceased to exist in the twentieth, however. Suburbanization is a process within overall urbanization where population and development still increases in urbanized areas, but in less dense parts of those areas or in census-designated places outside of, but peripheral to an urban area such as an unincorporated community on the outskirts of a large city. In fact, most suburban areas that developed during this period were urban in that they were located within urban clusters but were suburban in density and character. In any event, the trends changed somewhat, resulting in an entirely new form of built environment that emerged after World War Two. The growing swaths of the American landscape known as “the suburbs” were distinct from both the dense urban centers of major cities and the sparsely populated rural areas of the countryside. In the suburbs, families generally lived in low-density neighborhoods

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<sup>9</sup> A great deal of scholarship has gone further and bridged the gap between cultural history and urban planning, specifically how the automobile and its transformative influence in American life was related to cultural and economic trends such as individual and household consumerism.

comprised of single-family homes with most of their shopping and the majority of their community services and resources such as schools, libraries, and hospitals/clinics located nearby. The highest-paying jobs, however, were still in the cities, thus many workers became commuters.<sup>10</sup>

In general, suburbs were largely segregated communities where the most desirable real estate, or all of it in many cases, was denied to African-Americans and non-white immigrants. At first this was done through racially restrictive covenants that prohibited the sale or leasing of property in these communities to non-whites. These types of legal restrictions were deemed unconstitutional by the Supreme Court of the United States in 1948, but financial institutions and individual mortgage brokers continued to deny opportunities to minority applicants at their own discretion with minimal oversight. In most places banks could deny loan applications to anyone for any reason, as long as they did not specify that they were discriminating racially.

Thus, with clear racial divisions emerging between urban and suburban America, the phenomenon known as “white flight” began to take place where white Americans typically moved to suburbs or less dense urban areas while the inner cities largely degraded due to systemic disinvestment. Urban decline set in as the highest earners moved out to the suburbs and cities lost the ability and willingness to fund many programs. Soon public transportation, ironically the very thing that made suburbanization possible in the first place, came under fire.

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<sup>10</sup> Before the automobile reached its peak popularity after the war, streetcars were largely responsible for the growth of the first suburbs, known as “streetcar suburbs” or “streetcar communities.” The streetcar lines allowed workers who could afford the fare to live further outside of city centers. By making land that would become suburbs more accessible, they made it more valuable. Many streetcar companies took advantage of this by buying up undeveloped lands on the outskirts of cities and then selling the property to developers for a profit to fund the very streetcars that made the land speculation profitable in the first place.

Automobile and tire manufacturers conspired to purchase and close streetcar companies in major cities, thus leaving commuters with buses or automobiles as the only means of transportation available, both of which the corporations in question benefited greatly from.

Similarly, local governments during the twentieth century came to embrace policies that perpetuated systemic problems within urban America out of fear of hurting the short-term economy. Parking minimums, for instance, is a common policy in urban planning that persists to this day and requires minimum numbers of dedicated off-street parking spaces for developments.<sup>11</sup> Overall, parking is a highly inefficient use of land, particularly in densely populated areas where it is in the most demand. Furthermore, the asphalt and concrete used in the construction of parking lots and garages form an impenetrable surface that causes severe environmental problems with rainwater runoff and flooding. Also, and perhaps most concerning to planners and developers alike, the size of new buildings, whether they be multi-story high-rises or sprawling complexes, is frequently limited not by structural concerns, budget, or the architect's imagination, but in fact, by availability of the land that has to be allocated to meet the designated parking minimums.

One of the major reasons that modern cities require all of this parking is, of course, because there are few other transportation options in most areas. This leads to a self-perpetuating cycle of more cars requiring more roads and parking, which are inefficient uses of space, causing cities to have to expand outwards for greater distances which in turn leads to more cars on the roads and so the process continues again and again. In addition to the prohibitive distances that

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<sup>11</sup> Parking minimums have drawn harsh criticism for several reasons, particularly from Donald Shoup in his book *The High Cost of Free Parking* (Chicago, Illinois: Planner's Press, 2011).

people have to travel within urban environments, the means of that travel cause significant damage as well. Urban freeways and disconnected road systems destroy neighborhoods and displace populations, disproportionately affecting minorities and the economically disadvantaged who have no recourse, all for the sake of the auto industry and car culture.

These are the major issues that often epitomize twentieth-century urban planning history and are in no small part a consequence of the growing role of the automobile in American life. However, the automobile was far from reaching that level of influence in Cleveland, Tennessee during the height of the City Beautiful Club. In fact, in 1909 when the club held the first “Clean-up Day,” there were a mere thirty automobiles in Cleveland.<sup>12</sup> The stark contrast between the needs of cities during the rail and horse-driven long nineteenth century and those of the car-centric twentieth further drives home the historical necessity of considering these periods separately, at least in terms of land-use regulation. Thus, while the City Beautiful Club of Cleveland technically only existed during the twentieth century, from roughly 1909 – 1920, it was in every practical sense a nineteenth-century phenomenon.

Thanks in part to its location on state and federal highways, two major railway lines, and near the Hiwassee, Ocoee, and Tennessee Rivers, Cleveland, Tennessee and its surrounding area have enjoyed a cozy relationship with industry and manufacturing throughout their history. In the late nineteenth and early twentieth centuries, Cleveland faced many of the unique challenges of industrialization and urbanization including massive population increase, transportation issues, and public health concerns. Most of the severe environmental damage in the area, such as the desertification of the Copper Basin due to strip mining, occurred outside of town. However, the

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<sup>12</sup> William R. Snell, *Cleveland the Beautiful: A History of Cleveland, Tennessee 1842-1931* (Cleveland, Tenn.: First American National Bank, 1986), 229.

residents of Cleveland were intimately aware of these conditions as the copper produced from those mines came to Cleveland from the smelters near Copperhill, Tennessee, via wagon and was then shipped via rail. Additionally, Cleveland was not immune to other harmful industrial processes that affected many cities during that time, environmental and otherwise.

The decade immediately prior to the founding of the City Beautiful Club of Cleveland, roughly 1900-1910, brought the worst effects of urbanization and the city became somewhat run-down as a result. The courthouse grounds were unkempt, and the train station required renovation due to damage from nearly constant loitering. To make matters worse, there were no public restrooms or drinking fountains in the city's public spaces. Benches around downtown became splintered and ruined due to overuse and carving with knives. Similarly, many private homes and tracts of land were in desperate need of attention. Perhaps most interestingly, despite laws forbidding it, hogs freely roamed the streets while the city and county governments neglected to control them.

Understanding these issues and the solutions that they inspired does not require a comprehensive history of Cleveland, Tennessee, though several scholars have undertaken projects of that scope.<sup>13</sup> Similarly, a narrative of the City Beautiful Club of Cleveland without context for the time and place in which it existed would do little to fully address the subject. However, Cleveland and its City Beautiful Club form an example of how one small town faced the challenges of urbanization and industrialization during the long nineteenth century and what social, legal, and political apparatus it had at its disposal to do so. Furthermore, exploration of the historical moment in which this club operated, as reconstructed through legal, social, and

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<sup>13</sup> Dr. William Snell's *Cleveland the Beautiful* provides an excellent overview of Cleveland's early history.



political context, as well as the relationships between those contexts, brings attention to several distinctive aspects of American life in the nineteenth century. This backdrop, as well as accounting for the processes of urbanization and their influence, is crucial for understanding nineteenth-century America historically and American history more broadly.

Legal, social, political, and ideological context behind land use within the City of Cleveland Tennessee, and the efforts of its City Beautiful Club during the early twentieth century in particular, form an historical example through which these larger questions are grounded in the experiences of real people. Focusing this broad subject through the lens of a single city may not comprehensively address the question “how was urban land use regulated in nineteenth-century America?” but it provides a starting point and an anchor for which philosophical and seemingly abstract ideas manifest in concrete terms. Court decisions and statutes effective within the jurisdictions of Cleveland and Bradley County, Tennessee and newspaper articles and letters from the period and historical actors in question offer insight and lend themselves to an understanding of the effects these regulations had on individuals and the public at large.

Beyond Cleveland, primary intellectual accounts of individuals, such as Frederick Law Olmsted and Alexis de Tocqueville, also provide important social observations and commentary on the guiding philosophies behind what would become the City Beautiful movement. These individuals reported on existing urban conditions in America during their own time and, in Olmsted’s case, espoused the virtues of a well-regulated society and a built environment that reflected the orderly and healthy nature of the society that it housed.

Thoroughly exploring the urban development of each major American city during the nineteenth century, or even a single major city for that matter, would be an enormous project. However, examples of how municipalities regulated land use provide a general understanding of

what typically took place in American cities prior to comprehensive zoning efforts of the twentieth century. Accounting for and describing the mechanisms that municipalities most commonly used to regulate land use as well as the legal foundations of those mechanisms is particularly important. The combination of this material will provide an overview or a sketch of the legal and social contexts behind land use regulation in the nineteenth-century United States rather than a story of change over time or a comprehensive narrative of how a specific community overcame the unique challenges that it faced.

While scholarship supporting a view of nineteenth-century society as “well-regulated” abounds, the specific topic of land use regulation remains largely unexplored up to this point. The all too commonly held belief that all land use regulation is a twentieth-century phenomenon and that development before government involvement was entirely guided by the invisible hand of the market is unavoidable, yet easily dispensable. In actual fact, nineteenth-century America boasted a unique variety of land use regulations that had the capacity to influence nearly every aspect of urban development. The results are not dissimilar from those of the modern system of comprehensive planning and zoning, yet these governmental controls reflected the unique context of nineteenth-century United States law, politics, government, and culture. Ultimately, while understanding the extent to which government and the public were involved in urban land use during the nineteenth century is crucial for understanding the history of American urbanization and development, this context is also necessary to historically understand nineteenth-century America more broadly.

## Chapter One:

### *Salus Populi*: The Legal Context of Nineteenth-Century Land-Use Regulation

American law is a broad and inclusive subject with several diverse forms of law each existing under the Constitution of the United States. The aspects of the American legal system which pertain most to land-use regulation, however, generally fall into the categories of common law and civil law. Common law or decisional law is based in the longevity of binding legal precedents based on court decisions. Within this system, judges engage in a form of limited law-making through their decisions as the precedents they set inform future decisions. Civil law or statutory law, on the other hand, is based on codified laws or statutes. Civil law is usually a product of legislative rather than judicial power within a jurisdiction and generally prohibits or commands activity as a preventative measure.

Accounting for the nineteenth-century legal and social contexts surrounding land-use controls in American urban environments is crucial for understanding the development of American cities of all sizes during that time, as well as how (and why) some cities, such as Cleveland, Tennessee, dealt with public nuisance issues, such as those resulting from uncontrolled swine. For the purposes of this discussion, the “nineteenth century” refers to a “long” nineteenth century ranging from roughly the 1770s to the 1910s. This periodization particularly suits the purposes of studying the political and legal contexts of urban land-use regulation and control because it begins with American independence and the establishment of relevant state and local jurisdictional apparatus and ends with the first wave of comprehensive planning and zoning legislation in American cities during the second decade of the twentieth century.<sup>14</sup> This periodization similarly lends itself to framing the social context of the City

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<sup>14</sup> New York City passed the first comprehensive zoning ordinance in 1916, denoting the beginning of the era of modern zoning and the end for the unique legal and social contexts

Beautiful movement's rise as well as American civic engagement more broadly during this period.

To be sure, urbanization, industrialization, the transformation of American law, and the rise of landscape architecture and urban planning were all processes. Processes, by nature, involve change and require the passage of time for these changes to take place. However, not every American city grew at the same rate or began at the same time. Furthermore, while there are largely universal challenges associated with these processes, industrialization and pollution for instance, not every city faced these challenges under the same circumstances. Fully considering the broader implications of these large-scale processes at the national level as well as the specific local solutions that they prompted, then, requires context of what cities were likely to face and how they were able to respond within the limitations of their time and place.

The decades within the long nineteenth century hosted a somewhat stable regulatory paradigm where local and state governments approached land use with the same guiding philosophies and mechanisms across the period. That is not to say, of course, that American law and society went through no changes during this period at all. Ample studies have explored the multitudes of changes in American society over the nineteenth century and firmly established tremendous change during that time. Though perhaps to a lesser extent, American law has also been the subject of several influential works such as *The Transformation of American Law: 1780 – 1860* by Morton Horwitz, *Law and the Conditions of Freedom in the Nineteenth-Century*

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surrounding land-use regulation during the long nineteenth century. Todd W. Bressi, ed. *Planning and Zoning New York City: Yesterday, Today and Tomorrow* (New Brunswick, New Jersey: Center for Urban Policy Research, 1993); Peter Hall, *Cities of Tomorrow: An Intellectual History of Urban Planning and Design in the Twentieth Century* (New York: Basil Blackwell, 1988).

*United States*, by James Willard Hurst, and *Law, Labor, and Ideology in the Early American Republic*, by Christopher L. Tomlins.<sup>15</sup>

Horwitz makes a cogent argument that American legal culture changed over the period he studies in such a way that property rights of individuals gave way to corporate and state interests. Horwitz centers this argument around the specific issue of water rights and what recourse property owners had when development or changes upstream from their land adversely affected them and their property. Over time, legal precedents generally shifted from rulings in favor of property owners to decisions in favor of commerce and development. Protections for individuals still existed of course, Horwitz argues, but legal battles changed to incorporate a pseudo-utilitarian formula where if the potential benefits for the development upstream outweighed the damages to the individuals downstream, then the development was allowed because it would net a positive gain for the community as a whole.

The evolution of land-use regulation is an ongoing process, primarily at the local level, that has developed and changed over time to suit the requirements of specific times and places since colonization. Statutes and court decisions that limited the rights of property owners for the

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<sup>15</sup> Horwitz goes to great lengths to comprehensively explore the changes in United States law during the nineteenth century, including the inherent resistance to change within common law due to precedent and the difficulty of overturning it. Hurst and Tomlins, on the other hand, cover the topic more briefly, but Tomlins goes further to attribute this change in the American legal landscape as part of a larger hegemonic expansion of the state and capital's power over individuals and the working class across the United States, particularly in cases of industrial accidents.

Morton Horwitz, *The Transformation of American Law: 1780-1860* (Cambridge, Mass.: Harvard University Press, 1977); James Willard Hurst, *Law and the Conditions of Freedom in the Nineteenth-Century United States* (Madison, Wisc.: University of Wisconsin Press, 1956); Christopher L. Tomlins, *Law, Labor, and Ideology in the Early American Republic* (New York: Cambridge University Press, 1993).

public good have been a facet of American life from its very beginning. In large part, however, the ideological framework behind various coercive and passive mechanisms that local governments used to control land-use on private properties remained essentially the same until the growth of planning agencies and comprehensive zoning through statutory law in the twentieth century. For these reasons, and given the wealth of secondary literature on the greater legal changes at work, it is more helpful to consider the context of land-use regulation in the nineteenth century and its relationship with the urbanization of America as a broad overview of the legal and ideological framework that guided regulation during this time rather than as a story of transformation and change over time.

*The People's Welfare* by William J. Novak and *Liberty and Coercion* by Gary Gerstle consider the historical problem of recreating these unique legal and ideological contexts of American government during the nineteenth century. Novak is primarily interested in the complex system of statutory and common law that regulated society to ensure public welfare during the nineteenth century as well as the transformation of American liberalism over time. Gerstle outlines the origins of American government and explains the gradual process of the federal government's expansion of central power over time. Though they have different goals, each author successfully contributes to a more thorough historical understanding of nineteenth-century America through investigation and explanation of the complex ideological underpinnings that drove political discourse and action within various levels of American government during that time.

In *The People's Welfare*, William J. Novak seeks to correct the common misconception of nineteenth-century America as a classically liberal or stateless society, stating instead that

such a “golden age” of American classical liberalism never existed.<sup>16</sup> Novak’s main argument is that, contrary to myth, the society of nineteenth-century America was, in fact, highly regulated at the state and local level with concern for the public health, safety, and welfare at the forefront. Furthermore, the mythological history of American liberty “with all its vaunted rhetoric of unprecedented rights of property, contract, mobility, privacy, and bodily integrity, was built directly upon a strong and consistent willingness to employ the full, coercive, and regulatory powers of law and government.”<sup>17</sup> Novak also argues that the “law and the state were not simply reflectors or instruments or facilitators of natural evolutions in the market or civil society,” but “were creative and generative.”<sup>18</sup> In short, regulations were neither reactionary nor guided by market principles, but were instead both proactive and based in a desire to shape society to the benefit of the common good, even at the expense of individuals. These laws and governmental philosophy form a lost regulatory tradition that he calls “the well-regulated society.”<sup>19</sup> Within that well-regulated society, the rights of individuals “were inseparable from social duties, liberty was regulated, and the private and public were inextricably intertwined.”<sup>20</sup>

According to Novak, the well-regulated society countered four pervasive myths about nineteenth-century America: statelessness, individualism, transformation, and exceptionalism. It did so “with four distinguishing principles of positive governance,” which were “public spirit,

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<sup>16</sup> William J. Novak, *The People’s Welfare: Law & Regulation in Nineteenth-Century America*, (Chapel Hill, NC: University of North Carolina Press, 1996), ix.

<sup>17</sup> *Ibid.*, 17.

<sup>18</sup> *Ibid.*, 236.

<sup>19</sup> *Ibid.*, 2.

<sup>20</sup> *Ibid.*, x.

local self-government, civil liberty, and law.”<sup>21</sup> Public spirit meant that government and society existed to further the public welfare, placing the rights of the individual subservient to the needs of the community. Local self-government entailed both local authority being at the center of the governmental structure as well as the expectation that local governments would have the freedom and power to govern themselves with members of a community playing a role in determining the rules under which the community would be organized and regulated. Civil liberty, however, was conditional and always subject to the people’s welfare. Finally, law refers to the basis of society within government and the established legal framework of common law and statutes that maintained public health, safety, and welfare. Novak presents these principles as “part of a worldview decidedly different from our own” and crucial to recreating American government during the nineteenth-century.<sup>22</sup>

Similarly, Gary Gerstle also seeks to historically recreate the American government of the nineteenth century in *Liberty and Coercion*. However, he goes further and traces the development of American government from its origins in the eighteenth century to “the Leviathan it has become in the twenty-first century.”<sup>23</sup> According to Gerstle, while American government has changed over time, it has always been characterized by a paradox where “liberty and coercion were bound together from the earliest days of the republic.”<sup>24</sup> Gerstle establishes that the two divisions of American government, federal and state, are based on entirely different

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<sup>21</sup> *Ibid.*, 9.

<sup>22</sup> *Ibid.*, 12.

<sup>23</sup> Gary Gerstle, *Liberty and Coercion: The Paradox of American Government from the Founding to the Present*, (Princeton, NJ: Princeton University Press, 2015), 1.

<sup>24</sup> *Ibid.*, 4.



theories of government. Specifically, the central government was guided by liberalism with its emphasis on individual rights while states were focused primarily on the needs of society as a whole. Furthermore, states operated under “police power” and were not bound by the Constitution and federal Bill of Rights during the early republic and, thus, had no obligation to observe the principles of liberalism that guided and restricted the central government during that time.

Gerstle explains that police power was a holdover from the doctrine of “public police” which stemmed from the British monarch’s responsibility and authority to account for the public welfare of the whole, even at the expense of individuals. According to Gerstle, political figures at the time rationalized the paradoxical adherence to this monarchical principle at the state level while the national government was concurrently guided by liberalism because while the monarchy’s power had been based in divine right, state legislatures “expressed the democratic will of the people.” Furthermore, they believed that “the people, as a rule, would not use the democratic forum made available by state legislatures to tyrannize themselves.”<sup>25</sup> Gerstle goes on to say that, contrary to the liberal ideology that restricted the central government, coercion was inherent to this system at the state level and that it did little to protect individuals or minorities from the majority imposing its will upon them. Through police power, states enacted numerous coercions of individuals for the public health, safety, and welfare and could “engage in extensive regulation of the economy, society, and morality, in both progressive and regressive fashions.”<sup>26</sup>

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<sup>25</sup> Ibid.

<sup>26</sup> Ibid., 61.

According to Gerstle, while the power that states once held “remains largely unknown,” the expansion of power within the American central state, despite greater attention, is also misunderstood.<sup>27</sup> This “improvisation,” as Gerstle explains, is the best way to understand the expansion of the federal government beyond its original form. He identifies three strategies of improvisation that facilitated the expansion of central power: exemption, surrogacy, and privatization. Exemption involved the central government subverting constitutional limits and expanding domestic power through avenues outside the polity such as foreign policy. Surrogacy, on the other hand, was the central government’s use of its constitutional authority in one issue to create policy governing a different and not explicitly authorized issue. As an example of surrogacy, Gerstle cites the federal government’s application of its right to create a postal system as a basis to control the telegraph beginning in the 1860s. Unlike exemption and surrogacy, privatization relied on the central government compelling private groups to enact changes that it lacked the “authority or capacity” to achieve on its own such as the transcontinental railroad.<sup>28</sup>

Both Novak and Gerstle, despite the different scopes of their respective works, address the historical problem of understanding the roles that individual rights and public welfare played in the creation of American government. Furthermore, they each seek to account for the ways that these relationships and the meaning that these ideas had changed over time. If Novak is correct that knowledge and understanding of regulation in nineteenth century America “remains something of a trade secret” and Gerstle is likewise prescient in his observation that “the story of the scope and durability of the power wielded by the states remains largely unknown,” then these

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<sup>27</sup> *Ibid.*, 5.

<sup>28</sup> *Ibid.*, 107.

works and the conversations they generate surely have made and continue to make strides in raising the awareness that they find sorely lacking.<sup>29</sup> In any event, understanding nineteenth century America historically would be impossible without considering its unique system of government, its ideological origins and relationship to society, as well as its capacity to affect everyday lives of individuals and the community at large.

During the long nineteenth century, urbanization and industrialization brought a unique set of problems to American cities of various sizes. New York, Boston, Chicago, and other major cities embraced various means to face these new challenges, some of which have been of interest to municipal planners and historians alike. Generally, the scholarly consensus emerging from these works has been that comprehensive zoning ordinances and the modern urban planning profession delivered urban America from its primitive and unregulated state during the nineteenth century and resulted in the orderly built environment of today. Thus, land use zoning, park planning, and public transportation infrastructure were twentieth-century phenomena which would have been impossible in nineteenth-century America. However, this is not the case. Urban land-use was often highly regulated in nineteenth-century America, though the mechanisms that jurisdictions used were less centralized and applied inconsistently when compared to today's comprehensive ordinances.

Common law also played a much larger role in land-use control than many scholars have accounted for. In the English legal tradition that the United States inherited, individuals and their rights generally received beneficial treatment over commercial interests in decisions.

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<sup>29</sup> Novak, *People's Welfare*, 2; Gerstle, *Liberty and Coercion*, 5.

At the same time, citizens who could demonstrate hardship due to neighbors' actions could receive payment from the perpetrator of their injury. Historically considering the role of common law also poses some serious issues, however. Bringing legal action against a neighbor required a substantial investment of money and time that not all citizens had to spare. Furthermore, while statutory law is proscriptive and proactively prohibits or limits certain activities before the fact, common law is generally reactionary in nature.<sup>30</sup>

Overall, American law changed significantly over the course of the long nineteenth century. However, as it was distinct from twentieth-century American law in terms of land-use and planning apparatus, it is generally beneficial to begin in the broadest terms of what was possible in that paradigm and then account for changes over time. Historical analysis of those processes at work during this period, such as the rise of judicial decisions in favor of commercial or corporate interests, further serves to explain the legal context surrounding land use as well as the larger philosophical and political impetus behind communities' and jurisdictions' approaches to regulating and organizing their physical spaces. For the purposes of this conversation, it is imperative to differentiate the nineteenth century legal framework from what came after in order to more fully understand what was possible in terms of land-use regulation at the local level, what generally transpired in most places, and how those actions took place. A significant portion of the regulatory and civil design apparatus at work in most modern cities did not exist, or at least did not exist in its modern form during the long nineteenth century. The historical

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<sup>30</sup> Logically, it follows that potential monetary consequences as well as the inherent difficulty of overturning decisions and binding legal precedents may have dissuaded some individuals from taking action and undertaking developments that could have been damaging to others, but no documentary evidence is likely to record those instances with enough detail to make a compelling argument to that effect.

equivalents of specific aspects of modern planning and zoning, while they did exist, also operated within a distinctly nineteenth-century framework that did not exist in the twentieth century or later. In any event, historical analysis of nineteenth-century land-use controversies fundamentally depends upon sound background information based in that time's legal context and not merely on a general understanding of modern systems and methodology.

Chapter Two:  
Health, Safety, and Welfare: The Mechanisms of Nineteenth-Century Land-Use Regulation

Nineteenth-century American cities generally regulated the use of private land for the same reason that jurisdictions have done so before and since that period, which is to ensure the public health, safety, and welfare.<sup>31</sup> The underlying philosophical authority that state and local governments used, and still use, to limit the rights of individuals, in this case the relative right of property owners, for the common good is inherited from the doctrine of “police power” in the English system of law.<sup>32</sup> In that system, the king’s authority granted government the ability to “police” issues in order to secure public health, safety, and welfare. While discussions about police power in the United States, both during the nineteenth century and among historians since that time, are generally limited to state and local governments, federal court decisions during the nineteenth century often set crucial precedents that legitimized police power even when they ruled in favor of federal law over the power of the states. Chief Justice John C. Marshall supported the police power of state and local governments to provide for public health through

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<sup>31</sup> William J. Novak goes to great lengths to establish the roots of hostility to this perspective. He argues that myths of American wholesale rejection of European concepts and traditions such as hierarchy and statism in favor of unique American virtues such as self-reliance and entrepreneurship form the backbone of a “master narrative” pitting liberty against government at every turn. This “cult of American exceptionalism,” Novak argues, has resulted in an overemphasis on the invisible hand, individual rights, and the constitutionally limited powers of the government and created a mythical stateless society as well as a romanticized liberal nineteenth-century American identity. Novak, *The People’s Welfare*, 7; William J. Novak, “The Myth of the ‘Weak’ American State,” *The American Historical Review* 113 no. 3 (June, 2008): 752-772.

<sup>32</sup> Tomlins, *Law, Labor, and Ideology in the Early American Republic*, 38-39, 94; Novak, *The People’s Welfare*, 44-45, 56-62, 191-204; Gerstle, *Liberty and Coercion*, 56-57, 310.

inspection, quarantine, and “health laws of every description” in *Gibbons v. Ogden* (1824) and again for public safety, specifically restricting gunpowder storage, in the majority opinion in *Brown v Maryland* (1827).<sup>33</sup>

While the federal government’s power over individuals is limited by the principles of classical liberalism and the Constitution of the United States, the states themselves are sovereign and are not legally bound by those restraints. As state governments grant charters to towns, townships, cities, and county governments, they share the legitimacy of the tradition of “police power” under the same imperative of ensuring the public health, safety, and welfare for the general population. Neither state nor local governments, then, were obligated to prioritize individual rights over the needs of the community in the same way that the federal government was. It was their prerogative, of course, if they chose to do so and the degree of classical liberalism’s incorporation into state constitutions varies from state to state. The changing landscape of American law during the nineteenth century further complicated matters as judicial decisions came to benefit commercial interests more and more.<sup>34</sup>

However, while the philosophical and legal foundations of the rights of local governments to regulate land-use are built into the American system of law and are thus slow to change, the specific statutory emphases and mechanisms that nineteenth-century cities used reveal a distinctive element of American urban culture and society more broadly during that period. The lack of centralized planning at the city level and piecemeal introduction of statutes meant that many issues that are interrelated were regulated independently from each other and

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<sup>33</sup> Hurst, 44-45; Novak, *The People’s Welfare*, 53-54, 193, 210-211.

<sup>34</sup> Horwitz, 245-252; Hurst, 36, 101-104; Tomlins, 74-75.

often inconsistently enforced. Furthermore, efforts to promote public health, safety, and welfare during the nineteenth century were often based more in the effort to address the challenges of urbanization and industrialization than as a matter of tradition or nostalgia. Land-use regulation, then, while practically grounded in, intellectually justified by, and occasionally limited by tradition and the needs of the past, was also largely inspired by and motivated towards prescient understanding of the needs of the future. In short, it was proactive and, generally, proscriptive of activities that could cause injury as the rights of individuals were always a secondary concern to the public welfare.

These regulatory measures, as well as the civic impulse behind them, are ultimately results of urbanization and the collection of people into a small area. The less space people inhabit, the more likely they are to affect each other in a public capacity and require government intervention which in turn modifies the rights of individuals in favor of the public interest. If an individual sought to build a tall fence around their property, for instance, the likelihood of that project negatively affecting their neighbor is significantly higher in a city than if there were miles between them. Thus, in sparsely populated areas of the United States, both during the nineteenth century and today, property rights are usually not modified through regulation or, at least, are done so to a much lesser extent because the need to provide for the public health, safety, and welfare is significantly reduced in comparison to an urban environment.

One of the greatest concerns to cities during the nineteenth century was public health. As population density increased in cities, illness spread more easily from person to person. In addition to bringing people in closer proximity to each other, migration and population increase in cities also brought people together from different areas, exposing the population to illnesses for which they may have had no natural resistance. Even before an understanding of the germ



theory of disease became commonplace, city-dwellers understood that there was a correlation between uncleanliness and the outbreak of illness. This conventional wisdom surrounding order as a preventative for health problems greatly contributed to the rise of the City Beautiful movement and its belief in physical order, beauty, and cleanliness.

Cleveland had addressed public health concerns, both proactively and as reactions to serious issues by the close of the long nineteenth century. In 1913 a State Board of Health representative determined that 35% of local children inspected suffered from hookworm infestation, prompting the establishment of ten (involuntary) treatment checkpoints throughout Bradley County. Near the end of the City Beautiful Club of Cleveland's popularity, the importance of public health was a settled issue as the Spanish influenza epidemic hit Cleveland in October of 1918, killing forty in the first month and returning again in April of the following year. 1919 also brought an outbreak of tuberculosis which took an additional seventy lives in that year alone. To combat these threats, a combination of concerned citizens and medical professionals, financially backed by the city and county governments, educated the public on hygiene and provided treatment to stop the spread of infectious disease.<sup>35</sup>

Similarly, public safety has long been a major issue for cities. Along with epidemic disease, fire has always been among the greatest threats to the safety of urban centers and other densely populated areas. In fact, many of the earliest laws regulating land-use in America were for the purpose of fire prevention.<sup>36</sup> Structures constructed from wood posed a significantly

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<sup>35</sup> Snell, 273-276, 288, 368.

<sup>36</sup> In 1679, the General Court of Massachusetts went so far as to order that new urban dwellings be constructed of "stone or bricke, and covered with slate or tyle" with the penalty for non-compliance being double the value of the structure. South Carolina and New York also banned "nuisance" structures constructed of wood due to the fire hazards they posed. South

greater risk of catching fire than masonry construction. In a dense area where multiple wood structures are built closely together with very little or no separation between them, that risk becomes even greater. Hazardous heating and lighting practices combined with inadequate water availability for fire suppression further complicated matters in many cases.<sup>37</sup>

To combat fires, volunteers formed many of the first fire companies in American cities. Similar to the City Beautiful Club of Cleveland, these organizations typically also functioned as social clubs and acted out of a sense of civic responsibility for the safety and welfare of their community. During tense periods due to drought or social unrest, fear of fire and its destructive potential motivated communities to occasionally organize night patrols and other measures to prevent and quickly suppress fires. Adding to the confusion, newspapers often perpetuated narratives of arson as the cause of destructive fires which divided communities and led to distrust and fear. One famous example from Mississippi exemplified the incendiary tone of the arson accusations, albeit with unusually fiery language.

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Carolina allowed for local governments to remove the structures while New York provided only for fines, indictment, and imprisonment of non-compliant tenants and landlords.

Carl Bridenbaugh, *Cities in the Wilderness: The First Century of Urban Life in America, 1625-1742* (New York: The Ronald Press Company, 1938), 56; Massachusetts Colonial Records, V, 240; Jane H. Pease and William H. Pease, "The Blood-Thirsty Tiger: Charleston and the Psychology of Fire," *The South Carolina Historical Magazine* 79, no. 4 (October, 1978): 281-295; Carey Hearn, "Fire Control in Antebellum Mississippi," *The Journal of Mississippi History* 40, no. 4 (1978): 319-327; *The Statutes at Large of South Carolina: 1682-1841*; *The Laws of New York, 1871-1808*.

<sup>37</sup> There are several excellent overviews on the subject of fire and the universal dangers it posed to urban areas across the nation. See: Carl Bridenbaugh, *Cities in the Wilderness*, Chapter Three; Carl Bridenbaugh, *Cities in Revolt: Urban Life in America, 1743-1776* (New York: Knopf, 1955), Chapter Eight; Richard C. Wade, *The Urban Frontier: Pioneer Life in Early Pittsburgh, Cincinnati, Lexington, Louisville, and St. Louis* (Cambridge, Mass.: Harvard University Press, 1959), Chapters Three and Nine.

Some sneaking, savage, sanguine, scorbustic, scraggy, scrofulous, scurrilous, shameless, sinister, slouchy, slavish, slinking, slovenly, sordid, skulky, soulless, slubberede guillion, set fire to a frame house on Washington Street on Saturday morning last, before day, which, but for its accidental and early discovery would certainly have laid in ruins a large portion of the city.<sup>38</sup>

However, in large part these accusations were generally baseless as the vast majority of fires were likely a result of accident rather than design. Whether based in truth or not, the fear surrounding arson generally led to greater security after the outbreak of fire and during times of civil unrest or drought when the likelihood of a fire, both accidental or purposeful, was greater.<sup>39</sup>

In any event nineteenth-century American cities strove to prevent fires and mitigate their damage whenever possible. As much as dependence on volunteers and private citizens as fire fighters seems to support the prevailing narrative of a liberal and stateless society, the opposite is true. In the context of the common law vision of a well-regulated society, fire posed a grave threat to a community's safety and welfare which were fundamental prerequisites for government and society as a whole. In short, urban fire prevention was unmistakably a public issue and, thus, could not be left to private individuals. Cleveland in particular seems to have prioritized fire prevention and control. In 1895, the same year that the first fire company was organized, municipal water was installed in the city with roughly four miles of pipe and forty hydrants for fighting fires. By 1896, the fire department expanded to two companies of one chief and twelve members each. Citizens of Cleveland enjoyed the benefits of these investments as the city's fire insurance rating improved that same year, resulting in a 20% premium reduction. In

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<sup>38</sup> Vicksburg *Weekly Whig*, January 19, 1848.

<sup>39</sup> Hearn, "Fire Control," 321-323; Novak, *The People's Welfare*, 56-58.

addition to his duties as fire chief from 1895-1910, W.O. Horner also served as City Warden and oversaw construction permits and building code enforcement in the city. While all municipalities enforce fire and building codes for essentially the same reason, to ensure public safety and welfare, Cleveland's arrangement of having the same individual ultimately review all construction in the city for compliance with both fire and building codes was unusual.<sup>40</sup>

Compared to the more concrete health and safety, public "welfare" is a more ambiguous concern and has, therefore, inspired significantly more situational and unique regulations. Generally, nuisance abatement efforts often coexisted with other concerns such as health and safety. Ordinances restricting the storage and production of gunpowder in densely populated areas, for instance, clearly had ramifications for fire prevention and thus public safety. However, scholars typically classify these statutes as "nuisance laws" in keeping with the legal vocabulary of the time. Public nuisances were serious matters in the political and social context of the well-regulated society. The common understanding within this paradigm was that individuals should not suffer injustice or unnecessary overreach into their private affairs, of course. However, actions that infringed on the rights of others necessarily became public issues and the common good of the greater part of society was always paramount over the interests of individuals. This understanding extended beyond legal discourse and into popular consciousness. In a society where the government was believed to derive its power and legitimacy from the people themselves and that those people were not subject to or alienated from their government but

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<sup>40</sup> *Journal and Banner*, January 23, 1896, February 6, 1896; Snell, 176-181, 186-187, 234-236.

Horner also ran a business as a jeweler and optician in downtown Cleveland where the family has continuously operated an optometry practice in the same office since 1882. His descendants do not appear to be involved in fire prevention or building permitting.

were, in fact, unified with it, the subordination of individual needs to those of the greater part of society was understood.<sup>41</sup>

While common law and binding precedents formed the legal basis of the well-regulated society, statutes were generally more effective for preventing potential injuries before they arose. Prior to modern zoning, cities used nuisance abatement to deal with many urban issues proactively. Laws restricting land uses that were generally harmful to the public often overlapped into other more specific concerns such as health and safety. However, nuisance laws also encompassed other concerns regarding public welfare that did not fit as neatly into other categories. Enforcement of moral standards, for instance, depending upon the character of the city could be a primary concern inspiring legal restrictions on alcohol sales, or conducting business on Sundays. In any event, the role of government in a well-regulated society was understood to be the provision of public safety and happiness as well as, ultimately, the preservation of society itself.<sup>42</sup>

Public health, safety, and welfare, then, were primary concerns for city governments and required the occasional modification of individual rights for the benefit of the public. In a time before comprehensive zoning legislation made these issues settled law in virtually every city and

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<sup>41</sup> Tomlins, 57. While Novak and Tomlins both discuss police power and the relationship between common law and statutory law in nineteenth-century America, they disagree on how the law changed and what relationship common law and police power may have had. Novak would generally argue that police power and its influence in statutory law of the nineteenth century was subject to the context of common law and the well-regulated society, while Tomlins presents the two as competing influences over the polity of nineteenth-century America. Tomlins also addresses police power's relationship with the rise of capitalism through the context of labor ideology which Novak does not.

<sup>42</sup> Novak, *The People's Welfare*, 71-79.

town in America, this regulation required a variety of mechanisms that regulated land-use to limit the dangers to the public health, safety, and welfare. However, within the framework of nineteenth-century American law and politics, cities and jurisdictions often applied these legal measures in a piecemeal fashion based on their specific needs. Since a variety of historical contexts and issues coincided and interrelated to inspire different solutions to different problems in different places and times, generalization about the past often becomes difficult. However, understanding local governments' prioritization of the common good over individual rights and commercial interests as well as what actions the application of those principles often involved, even if other possibilities existed, is a starting point for better understanding a more specific subject.

Chapter Three:  
Whig Culture, the Well-Ordered Society, and the City Beautiful Movement: The Social Context  
of Nineteenth-Century Land-Use Regulation

The City Beautiful Club of Cleveland, Tennessee, as well as the various other localized clubs and the national movement that they comprised, came to exist within a distinctive American culture of civic and social engagement. In fact, the American fascination with civic clubs and activism has long been a subject of outside observation. Alexis de Tocqueville remarked in *Democracy in America* that “in no country of the world has the principle of association been more successfully used or applied to a greater multitude of objects than in America. Besides the permanent associations which are established by law under the names of townships, cities, and counties, a vast number of others are formed and maintained by the agency of private individuals.”<sup>43</sup>

In short, nineteenth-century Americans had “clubs” and “societies” for virtually everything. This reflected a widespread belief in and commitment to preservation of community and local identity as well as a belief in social engagement as a force for positive change. Tocqueville went on to praise this as a positive aspect of American society at large. “The most natural privilege of man, next to the right of acting for himself, is that of combining his exertions with those of his fellow creatures and of acting in common with them. The right of association therefore appears to me almost as inalienable in its nature as the right of personal liberty.”<sup>44</sup> In a time before comprehensive zoning and widespread government intervention in land use outside of a few large cities, this culture of civic engagement made a cause such as the City Beautiful

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<sup>43</sup> Alexis de Tocqueville, *Democracy in America* (New York: Random House, 1981), 101.

<sup>44</sup> *Ibid.*, 104.

movement resonate with many citizens who saw the multitude of social problems, public health issues, and other ills in their communities that accompanied industrialization and urbanization. Cleveland, Tennessee, it would seem, was no different in this aspect from larger cities such as Chicago or Cincinnati, despite numerous differences in size and geography. The issues surrounding urbanization and industrialization, generally stemming from public health, safety, and welfare concerns, were the primary motivations behind beautification efforts. Thus, while every city had its own specific problems and circumstances that prompted different conversations and spawned incredibly diverse solutions, the overall philosophy that guided City Beautiful clubs in various cities was largely the same from place to place.

The City Beautiful movement more broadly as well as the localized clubs of which it was comprised were heavily inspired by the writings of Frederick Law Olmsted.<sup>45</sup> Olmsted was a pioneer in the field of landscape architecture and was largely responsible for the creation of that profession during the nineteenth century.<sup>46</sup> Though he was mostly concerned with public parks in his work, his philosophical ideas and principles of design that guided his work, particularly style

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<sup>45</sup> Wilson, *The City Beautiful Movement*, 9-34, 81.

<sup>46</sup> Olmsted also traveled throughout the American antebellum South and published *The Cotton Kingdom: A Traveller's Observations on Cotton and Slavery in the American Slave States, 1853-1861* as an account of his experiences. His observations in *The Cotton Kingdom* provide an insightful commentary on slavery and southern society prior to the Civil War. Olmsted was particularly critical of the legal and social arguments protecting the practice of slave-holding as if it were inseparable from any other form of property ownership, remarking that it was: "irregular, ambitious, and contradictory; that it is never either consistently humane or consistently economical." Frederick Law Olmsted, *The Cotton Kingdom: A Traveller's Observations on Cotton and Slavery in the American Slave States, 1853-1861* (New York: da Capo Press, 1996), 444.



traits such as escapism, greatly influenced movements such as the City Beautiful.<sup>47</sup> Olmsted believed in the “spiritual progress of man” and improvement of the human condition through a nurturing built environment.<sup>48</sup> Olmsted’s most famous achievement is almost certainly his work on Central Park in New York City. His design there, as with all his parks, was performed not just as art for art’s sake, but, in his own words, to “fulfill the physical and psychological needs of city dwellers.”<sup>49</sup> Parks, from Olmsted’s point of view, were not just additions to cities to improve property values or draw tourists, but were integral parts of planned cities that were just as important to the city as commercial, residential, or industrial areas. Furthermore, clean and open spaces within cities, in addition to their aesthetic qualities, allowed for dramatic practical and quantifiable improvements for the population such as reduction in crime and infectious disease.<sup>50</sup> These principles would become the guiding philosophy behind the City Beautiful movement.<sup>51</sup>

As these ideas took hold, the American character of strong civil and social engagement that Tocqueville remarked upon largely aided the public advocacy and push for reform through associations that formed the basis of the City Beautiful movement. However, the distinct

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<sup>47</sup> “Escapism,” in this context refers to the highly popular style trait common during the Romantic period often used in arts such as literature, visual art, and music. Escapism involves the use of pastoral themes, natural imagery, and distinctly rural elements in direct contrast to the dirtiness and unhealthiness of cities. It is widely regarded as a reaction to and rejection of environmental damage due to industrialization and urbanization.

<sup>48</sup> Frederick Law Olmsted, *Civilizing American Cities: A Selection of Frederick Law Olmsted’s Writings on City Landscapes*, ed. S.B. Sutton (Cambridge, Mass.: The Massachusetts Institute of Technology Press, 1971), 1.

<sup>49</sup> *Ibid.*, 10.

<sup>50</sup> *Ibid.*, 10-11, 23-24, 34.

<sup>51</sup> Wilson, *The City Beautiful Movement*, 75-98.

political culture of nineteenth-century America played a significant role as well. In *The Political Culture of the American Whigs*, Daniel Walker Howe outlines the relatively short-lived American Whig Party's lasting effects on American political culture and society. More specifically, Howe ties the political culture of the American Whigs to the City Beautiful movement, remarking that "the Whig desire to preserve rural values within an urban context eventually led to important developments in urban park and cemetery landscape architecture, culminating after the Civil War in the genius of Frederick Law Olmsted."<sup>52</sup> In contrast to other treatments, such as that of Arthur Schlesinger in *The Age of Jackson*, Howe treats the Whigs as a major political force rather than mere obstacles to Jacksonian democratic reform during the second quarter of the nineteenth century.

Accordingly, Howe approaches Whig figures and their philosophies more broadly than other studies and considers them beyond the terms of their involvement with the Whig Party itself. It is important to note that American Whigs, such as Olmsted, were not merely reactionaries or conservatives who opposed radicalism and the spread of democracy during the early nineteenth century. Nor were they essentially the political arm of entrenched traditional power and anti-democratic business interests as some scholarship has suggested. In fact, a more accurate characterization requires much more nuance. The political culture of the American Whigs fostered adaptation to problems of the day and, at times, was prescriptive of solutions to social, economic, and political issues that plagued the nation. Above all, they prioritized progress for society as a whole over concerns for the individual.<sup>53</sup>

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<sup>52</sup> Daniel Walker Howe, *The Political Culture of the American Whigs* (Chicago, IL: University of Chicago Press, 1979), 117.

<sup>53</sup> On the issue of slavery, for instance, the tendency of scholars all too often is to draw a metaphorical line and place individuals and parties neatly on one side or the other. The Whigs,

This larger Whig political culture, Howe argues, permeated American politics much more deeply and for a much longer duration than the relatively short existence of the Whig party itself. Furthermore, the “cultural inheritance of Whiggery” inspired policy and the development of new ideologies, such as the City Beautiful, long after direct political power had faded.<sup>54</sup> The City Beautiful movement as a whole, then, was part of what Howe calls the “American Whig tradition” and exemplified this philosophical lineage in numerous ways. The City Beautiful Club of Cleveland was particularly so as its membership, and especially the leadership, were mostly

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however, resist easy categorization. Though the party did not push for abolition during the height of its power, abolitionism and anti-slavery arose from the broader Whig culture. This fact as well as its relationship with concurrent democratic reform brings Howe’s characterization of the larger Whig political culture into focus. It may have opposed radical reform in terms of democracy, but it also gave birth to the Republican party a generation later. Not all Republicans were radicals, of course, and there was a great deal of diversity within that party. However, opposition to slavery within the framework of the Whig political culture was one of the founding principles of the Republican party upon its formation.

Andrew Shankman’s essay “Capitalism, Slavery, and the New Epoch: Mathew Carey’s 1819” in *Slavery’s Capitalism: A New History of American Economic Development* ed. Sven Beckert and Seth Rockman, also reconsiders the Whig practical position regarding slavery and builds upon the assertion of Edward E. Baptist and others that exploitation of slave labor ultimately drove all economic development in America. Baptist and others have gone even further to argue that it was, in actual fact, the increased brutality of slavery, or the “whipping-machine,” and not the cotton gin or any number of other apparatus or technological innovation that led to the greatest rise in slave production, and thus all economic development during the nineteenth century and afterwards. If that is true, then, Shankman argues, the success of the American System and other Whig plans for internal improvement depended on the continuation of slavery and its capital; therefore they were, in effect, pro-slavery despite the well-known common moral opposition to slavery among Whigs.

<sup>54</sup> Howe, 9-13, 137.

comprised of ladies from prominent or up-and-coming families in the community.<sup>55</sup> While it was not a fundamentally undemocratic movement, it was also not classically liberal in the sense that it sought not to wholly transform society through personal freedom and choice but rather through orderly provisions for the “common good.” Likewise, at its heart, the organization was not concerned with social equality of opportunity or outcome. Members believed that improvements in the environment would affect and improve the lives of all citizens. Furthermore, a well-ordered built environment had the power to affect the physical and emotional health, prosperity, and even morality of the society that it housed through easy access to clean, open, and green spaces. In short, “beautification” was not limited to superficial visual improvements, but was the true path to improved health, safety, and welfare in the community.

The nineteenth century, particularly following the Civil War, brought rapid changes in technology and society that exacerbated the congestion and unsanitary conditions attributed to urbanization. As cities grew, the popular conception of them as dirty, unhealthy, unsafe, congested, and ugly necessarily contributed to thought and action which sought to reverse those trends and “cure” the city of its ills. The City Beautiful movement’s rise in popularity understandably coincided with the relative rise in urban population in America, a trend which would eventually reach its tipping point between 1910 and 1920 where the nation’s urban population would outweigh its rural for the first time (Table 1). Cultural elites responded to these worsening circumstances by endorsing more orderly urban designs and guiding principles such as those introduced by the City Beautiful. These large-scale issues such as sanitation, pollution, and congestion affected city-dwellers of all income levels and social status in most cities,

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<sup>55</sup> This gendered element of the club’s history is, itself, a sign of further connection to the American Whigs’ larger political culture as the Whigs generally fostered more female engagement than other rival political traditions during the long nineteenth century.

undoubtedly leading to greater social engagement and financial support for the City Beautiful ideology than would have otherwise been possible. After all, if issues of rapid urbanization only affected specific neighborhoods or underrepresented groups of people, it is unlikely that wealthy elites and civic leaders would have responded as enthusiastically, if at all.

Frederick Law Olmsted's influence and legacy gave rise to the City Beautiful ideology. However, he ultimately left the movement with a strong ideological foundation and little else. Beyond his ideas, there was no practical institution or cohesive plan of action. His works inspired the development of an organized movement over the second half of the nineteenth century, but that organizational work itself fell to other figures such as his adopted son, John C. Olmsted, Daniel H. Burnham, and Edward H. Bennett who succeeded Olmsted as the movement's leaders.<sup>56</sup> Perhaps most significant of all aspects of the City Beautiful movement was the shared belief that urban design should not be considered separately from social issues and should foster inclusiveness in the community and civic engagement. Through this avenue, the City Beautiful eventually transformed into the first comprehensive urban planning movement in America by the 1920s, leading to the rise of professional planning in the twentieth century that largely replaced the piecemeal efforts that organized cities during the long nineteenth century.

Architects and reformers alike flocked to the ideology of the City Beautiful movement during the 1890s. In particular, the World's Columbian Exposition in Chicago during 1893 led to a significant rise in awareness and popularity of the City Beautiful ideology.<sup>57</sup> Burnham was in charge of construction of a temporary city for the fair, known as the "White City." This project was intended to provide an environment safe from crime, poverty, and other disorderly

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<sup>56</sup> Wilson, 3-7, 34, 36, 281.

<sup>57</sup> Ibid., 54-57, 65.

afflictions common to cities. As part of his design, Burnham incorporated elements of Frederick Law Olmsted's work and philosophy such as open green spaces balanced with buildings to form a cityscape that kept nature and modern construction in harmony with each other. Charles Mulford Robinson and his book *The Improvement of Towns and Cities*, published in 1901, is largely credited with furthering the perception of the City Beautiful as an avenue towards increased civic virtue, particularly within local politics.<sup>58</sup> The book was essentially the first guide to urban planning and would, in fact, go on to form the backbone of urban planning curriculum when the profession rose in popularity during the decades following his death in 1917. Robinson was a muckraker and journalist by trade, but his work had a profound influence on both the City Beautiful movement in terms of publicity, and the profession of urban planning in terms of pedagogy.

Beyond the practical concerns of making American cities more comfortable, healthy, safe, and generally more pleasant to inhabit, the City Beautiful movement also sought to broaden artistic horizons within the American psyche by incorporating more European elements. European-inspired designs from classical traditions and more contemporary romantic forms from the continent alike often shared space within orderly and balanced City Beautiful plans. One such example was Washington, D.C. which executed a City Beautiful design, called the McMillan Plan after Senator James McMillan, in 1902. This plan set limits to building heights and setbacks and carefully laid out positions of monuments and open spaces throughout the city in order to compose a balanced landscape with clear sight-lines to both practically reduce congestion and aesthetically create an open feel.<sup>59</sup>

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<sup>58</sup> Ibid., 45-47, 94, 287-88.

<sup>59</sup> Ibid., 67-70.

Other cities would follow suit over the next decade by enacting similar plans of their own, including Cleveland, Ohio in 1903, San Francisco, California in 1905, and St. Paul, Minnesota in 1906. The *Plan of Chicago* in 1909 marked the movement's highest point in popularity and influence.<sup>60</sup> The plan featured multiple public parks, integrated passenger rail, and a system of arterial and connector streets extending outward for sixty miles from a civic center. The balance of open spaces and walkways with roads designed for heavy traffic within this plan provided ample opportunities for residents to escape the city whenever possible, and exemplified the City Beautiful's embrace of both form and function to suit their needs.

Over the following decades, and particularly after World War One, the movement slowly gave way to professional planning initiatives and other artistic schools of thought such as the International Style.<sup>61</sup> Despite its short history, the City Beautiful movement left a lasting impression on American architecture and culture as a whole. It invoked distinctly nineteenth-century American ideals of civic engagement and directed that thrust towards a quest for an ideal community where all citizens could benefit and live up to their potential. It was not merely an optimistic or naïve ideological movement, however. It also confronted concrete problems within the American urban environment and fully embraced practical solutions to those problems. The merging of this pragmatism with the conviction that bettering society should not only be a consideration for urban design, but its greatest concern, led to the first professional planning

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<sup>60</sup> Ibid., 281-85, 300.

<sup>61</sup> International Style buildings were characterized by repetitive and modular forms that relied heavily on mass-produced materials. The most extreme form of this style is a derivative often called "Brutalism" which took these traits even further, resulting in blocky structures with strong geometric lines and exposed concrete. These buildings often coexist with City Beautiful-inspired structures in American cities today, showing the development of these styles during the mid-twentieth century in stark relief to what came before.

movement in America. Ultimately, then, even though the movement did not solve every issue it set out to, its lasting contributions are most clear when considered as an avenue of urban reform rather than revolution.



## Chapter Four: The City Beautiful Club of Cleveland, Tennessee

The City Beautiful Club of Cleveland, Tennessee was officially founded in 1911, though there is evidence of some club activity occurring as early as 1909.<sup>62</sup> August of that year saw the first annual “clean-up day.” This was an organized event where Cleveland and Bradley County residents were encouraged to clean up both their own property and public spaces for the good of the city. Though it was not advertised as a club-sponsored event until 1911 when the club was officially founded, this event marks the earliest known attempt by local citizens to collectively “beautify” Cleveland based on the ideology of Frederick Law Olmsted and the City Beautiful movement, particularly his belief in improvement of the health, safety, and morality of society through physical improvements in the built environment such as green spaces and parks.

Despite the discrepancy, according to a 1916 article in the *Chattanooga News*, the City Beautiful Club of Cleveland was officially founded in 1911 as an all-female group with seventy-five charter members.<sup>63</sup> The announced purpose of the club was to “engage in activities that pertain to the improvement of the city by beautifying it, assisting in educational work, and in any movement which tends toward improving, uplifting, and helping its people.” The City Beautiful Club, like many similar groups in Cleveland, appealed mostly to upper-class women. At its highest point of overall membership, the club consisted of several committees and departments including a Conservation Committee, a Legislative Committee, and a Civic Committee.<sup>64</sup> Among the club’s first projects were improvements to the public school grounds, the train station, and

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<sup>62</sup> *Journal and Banner*, September 1909.

<sup>63</sup> *Chattanooga News*, 1916.

<sup>64</sup> *Cleveland Daily Banner*, June 27, 1999.

the courthouse lawn by installing concrete walking paths, flower beds, trash cans, and drinking fountains. Additionally, the civics committee oversaw restroom installation on the first floor of the courthouse as well as in the train station.<sup>65</sup>

The City Beautiful Club of Cleveland, Tennessee was born, much like other local incarnations of the City Beautiful movement, out of the growing needs of an increasingly urbanized and industrial society. In fact, during the years between 1880 and 1900, the population of Cleveland more than doubled and would nearly do so again by 1909.<sup>66</sup> New initiatives, both in the private and public sectors, sought to address the issues of sanitation, public health, and even beautification. The years 1895-1910 likely brought the most significant period of urbanization in Cleveland. During this time, Cleveland began to provide more and better services for residents such as municipal water, a sanitary sewer system, and sidewalks. Beginning in 1909, Cleveland underwent a major sidewalk expansion project to add over two miles to the existing infrastructure. To defray the cost, homeowners along main streets were expected to construct the stretch of sidewalk fronting their lots at their own expense.<sup>67</sup>

Perhaps just as important as the new institutions and infrastructure was the renewed effort to enforce existing statutes and policies. For instance, city ordinances regulated the keeping of swine within the city limits. As the population increased, public health, safety, and welfare necessarily became greater concerns in Cleveland. In January of 1905, the City of Cleveland

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<sup>65</sup> *Chattanooga News*, 1916.

<sup>66</sup> Cleveland's population grew from 1,812 to 3,643 and would continue to grow at that rate to 5,549 by the close of the decade. *Bradley County Census Index, 1910*; Snell, 225; *Journal and Banner*, June 15, 1909.

<sup>67</sup> *Journal and Banner*, July 23, 1909.

banned the keeping of swine within its jurisdiction with each infraction drawing a fine of one to five dollars. An amendment to that ordinance, possibly due to lobbying by the Cleveland Ice and Cold Storage Company, later modified the city code and softened the law to allow the keeping of swine within the city limits during the months spanning from September first through April first. There were several restrictions or “conditions” to that land-use, however.<sup>68</sup> Owners were required to keep pens sanitary and ensure that their hogs did not “become a nuisance to adjoining property owners.” Furthermore, they were required to keep their pens at a setback of 125 feet from a street or alley. This restriction effectively banned pig pens from the densest parts of downtown due to the street layout not allowing lots large enough to provide the required setback on all sides.<sup>69</sup> Ultimately, then, while the statute permanently banning pigs within the city limits was no longer in effect, they were not supposed to be allowed to roam freely and, in virtually all cases, had to be kept on the outskirts of town where lots were big enough to practically allow compliance with the setback requirement. Additionally, hogs had to have rings kept in their noses to limit the damage they could cause to public and private property in town. However, those laws must have been disregarded to some degree, or had at least been inconsistently enforced. By 1911, the swine posed a significant enough public threat that the leader of the City Beautiful Club of Cleveland, Mrs. A.B. Crowe, petitioned the city government at a council meeting to enforce those existing ordinances, or pass a new one banning swine altogether.<sup>70</sup>

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<sup>68</sup> In modern terminology, these restrictions would likely classify pig pens a “conditional use” by ordinance and require an additional Conditional Use Permit to operate legally.

<sup>69</sup> *City Minutes of Cleveland*, August 14, 1905, 344 and May 4, 1906, 367; *Journal and Banner*, January 11, 1910.

<sup>70</sup> In that same meeting, the City Beautiful Club suggested that the city begin trash pickup due to the many public health, safety, and welfare concerns attributed to waste accumulation,

The swine ordinance example, while seemingly innocuous, sheds light on several critical aspects of urban land-use regulation during the nineteenth century. First, neither policy makers nor the historians that study policies after the fact can assume universal enforcement of laws. This particular urban issue arose, after all, not from a lack of regulation, but from lax or insufficient enforcement. Second, laws governing the use of privately owned land are generally based in police powers for the health, safety, and welfare of the public. Third, instances of statutory nuisance abatement, such as the swine ordinance, specifically sought to improve the health of the population as well as the built environment that it inhabited, consistent with the overall philosophy of the City Beautiful movement. And finally, understanding nineteenth century America historically requires an appreciation of the significance of social engagement and citizen advocacy of the time. The City Beautiful clubs all across the nation were just a handful of countless citizen advocacy groups and public-led improvement efforts.

By the 1920s, the City Beautiful movement at large was lampooned by a growing number of architects, engineers, and politicians who came to be called the “City Practical” movement. To the more pragmatic citizens and professionals, the City Beautiful ideology was naïve, impractical, and far too expensive. Furthermore, City Beautiful was also ineffective. Those criticisms were often based in valid experiences, but they did not dissuade the movement’s spread across America.<sup>71</sup> In the case of the City Beautiful club of Cleveland, public engagement and activism for the cause of “beautification” were commonplace. The focus was often as much on individuals and their contributions as much as government intervention. The club-sponsored

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including, presumably, the attractiveness of the trash to the local swine population. *Cleveland Daily Banner*, 4 July 1999.

<sup>71</sup> Wilson, *The City Beautiful Movement*, 281-305.

and organized annual “clean-up day,” for instance, was essentially a specified day every year beginning in 1909 when individual residents would beautify their own property in an effort to improve the overall conditions of the city.

Despite the common criticisms of the movement more broadly, the City Beautiful Club of Cleveland’s leadership was capable of more than mere advocacy. In 1920, for instance, the club spearheaded a project to replace and upgrade the benches surrounding the Bradley County courthouse, which had become damaged over years of use and abuse, particularly at the hands of “whittlers.” The county commission contributed \$100 to fund the project.<sup>72</sup> The years 1918 – 1920 proved to be difficult times for the club and, in fact, its end. Fighting in Europe drew attention away from hometown beautification. The club donated the entire contents of its bank account, \$222.72, to support the war effort and aid local families affected by the war and the outbreak of Spanish Influenza.<sup>73</sup> They announced that when the war was over they would resume regular activities, particular their outreach with children, but if they did so it was as individuals or a group separate from the City Beautiful. The club issued a public statement in the local newspaper on January 3<sup>rd</sup>, 1918, in which they explained their shifting priorities.

We women of Cleveland and Bradley County must be patriotic and must be conscientiously sure that each one of us is doing her very best to help win the war. Do not think that by being indifferent and complacent, you can escape responsibility. You are a slacker, and you are worse than a slacker, you are a traitor, by your indifference and complacency you are giving aid and comfort to the enemy. Every man and woman in Bradley County and in Cleveland, or, as we might say – in America, that is not doing his or her best to win this war, by saving fuel, saving food, and saving dollars to buy war

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<sup>72</sup> *Journal and Banner*, November 11, 1920; William R. Snell, *Cleveland, the Beautiful: A History of Cleveland, Tennessee, 1842-1931* (Cleveland, Tenn.: First American National Bank, 1986), 292.

<sup>73</sup> *Cleveland Daily Banner*, June 27, 1999.

stamps ought to start for Germany tomorrow. And, [b]e on the right side to show his or her colors. Whether you admit it or not, you are fighting your own country and your own people just as surely as though you were pointing a gun at their heads.<sup>74</sup>

The City Beautiful Club of Cleveland, Tennessee may not have lasted long under that name. However, the club's influence would continue beyond the organization itself, as is true of the City Beautiful movement more broadly. By focusing aspects of the Whig political tradition, itself a vestige from a long bygone era by the early twentieth century, onto contemporary issues inherent to urbanization, the club was able to address issues of land use in a unique way. By promoting beautification by private individuals on their own land as well as projects to improve public spaces, the club did not rely wholly on government enforcement of statutes and judiciary decisions like modern zoning. Thus, they avoided one of the largest complaints about zoning practices which is that they too often undermine property rights and the rights of individuals more broadly in favor of the public health, safety, and welfare. In this way, the City Beautiful Club of Cleveland, and the movement more broadly, largely operated outside of coercive measures to enforce a "well-ordered society" in favor of appealing to common citizens as a self-determining and voluntary source of positive change.

The club was, of course, concerned not just with city beautification for the sake of superficial visual improvement but also with practical solutions to more concrete problems. They were partly responsible for the much-needed remodel of restrooms in the county courthouse and railroad station, for instance, consistent with their overall goal of improving the health and prosperity of society through physical improvement of the space that the society inhabits.<sup>75</sup>

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<sup>74</sup> *Journal and Banner*, January 3, 1918.

<sup>75</sup> *Cleveland Daily Banner*, June 27, 1999.

Similarly, the club spearheaded a project to renovate and improve the courthouse lawn. As with many public spaces during this period, the courthouse grounds were a gathering place where local citizens and merchants bought and sold goods, picnicked, and discussed topics of the day. All this activity understandably caused wear and tear on the courthouse grounds and fixtures. The improvements included concrete sidewalks, trashcans, drinking fountains, and improved landscaping.<sup>76</sup> Similarly, the majority of transportation into and out of Cleveland prior to the automobile occurred via railroad. Passengers and onlookers could spend a great deal of time waiting for trains; thus the club also beautified the railroad station much as it did most of the public spaces in town.

The club's community outreach extended beyond land-use advocacy, however. The Civics committee, under chairwoman Mrs. William Knabe, handed out 7,000 pamphlets on proper infant care during a "baby week" campaign in 1916.<sup>77</sup> The week-long event consisted of a series of exhibits across town featuring speakers and visual aids such as stereopticon slides demonstrating safe and hygienic child-care practices. Following the success of this campaign, the club began plans to provide a playground and daycare facility for the children of mill workers in town.<sup>78</sup>

Consistent with the movement's mission, community outreach and education initiatives extended beyond physical health. Members visited schools and distributed seeds and books on gardening among the children. Beautification proponents from Olmsted on considered private

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<sup>76</sup> Ibid.

<sup>77</sup> Ibid.

<sup>78</sup> *Cleveland Daily Banner*, June 27, 1999.

and public gardens alike to be vitally important to a community's health, both physical and emotional, as well as its moral character. Although the City Beautiful Club of Cleveland was relatively short-lived, the Cleveland Garden Club continued this outreach well into the twenty-first century as a separate entity and still holds regular meetings to this day. Thus, much like the larger American Whig political tradition that it embodied, the City Beautiful movement's philosophical and political influence has long outlasted the duration of the organized movement itself.

The swine ordinance ordeal also had environmental implications for the city of Cleveland. Though it was quite small by most standards, Cleveland had already felt many growing pains common to industrializing communities. Residents of Cleveland, Tennessee, would have been aware of a particularly striking example of environmental damage due to industry in the nearby Copper Basin. Beginning in the 1840s, companies strip-mined copper from the hills in the Ocoee and Hiwassee River watersheds, resulting in a barren wasteland that took nearly a century to recover.<sup>79</sup>

In addition to the harsh realities of industrialization in surrounding areas, environmental issues also affected the town on occasion, adding to the general awareness and escapist tendencies that attracted the citizens of Cleveland to the City Beautiful ideology. According to local legend, residents could often tell when the textile mills in town switched to a different color dye because Mouse Creek would turn an unnatural shade of pink or blue. There is no record proving whether the mills dumped leftover or excess dye directly into the creek as a regular

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<sup>79</sup> Carol Harden and Louise Mathews, "150 Years of Environmental Degradation and Reclamation in the Copper Basin, Tennessee," *Southeastern Geographer* 39, no. 1 (January 1, 1999): 1-21.



practice of disposal or if it made its way there through runoff and drainage due to improper storage. In any event, if these accounts are true, the dye polluted local waters and potentially caused ecological and environmental damage. Prior to environmental regulations, there were, of course, virtually no consequences for the mill owners or operators.

In this context, any effort to beautify the city and improve public health through piecemeal enhancement of private residential property and public spaces seems unlikely to result in a positive outcome. After all, if industry can operate with little or no concern for the citizens' health and wellbeing, much less the town's physical appearance, why would those citizens go out of their way to try to improve the town? However, the City Beautiful Club of Cleveland's efforts and the philosophy behind them were not based in an anti-corporate revolutionary fervor, nor is its story one of the citizens of a small town reclaiming their lives and livelihood from greedy corporate interests. Rather, the club, as with most of the civic groups of its kind, was necessarily pragmatic in nature. If it was ever a point of contention, they would have been faced with the reality that their ability to meet, organize, and operate ultimately stemmed from economic growth that was, in the case of Cleveland, at least, made possible through technological innovation in industry. The membership of the club was entirely female, mostly consisting of stay-at-home mothers and wives of men who worked and earned enough to provide for the entire family. While industry may have been harming the environment and causing public health concerns, it was also providing the freedom for the club to exist in the first place.

Furthermore, this fact sheds light on another seemingly paradoxical relationship. Over the course of the twentieth century, American women would fight for and finally secure numerous freedoms such as political equality through suffrage, certain reproductive freedoms, and a general improvement in their social standing relative to men. As part of this greater equality and

independence, women more frequently went to school, worked outside the home, and acted as citizens in much the same way as men. However, this freedom to engage in the market also meant that well-to-do women largely had less free time in the decades following the height of the City Beautiful movement and, thus, ironically, generally had less freedom or inclination to engage in civic clubs and advocate for change in their communities.

While the City Beautiful Club of Cleveland, Tennessee, much like the broader movement of which it was a part, did not last very long, it left a lasting influence on the City of Cleveland. Today, professional planners, the parks department, city engineers, and housing officials address the ongoing practical concerns that the club faced. Similarly, social groups such as the Cleveland Garden Club still exist and meet to this day, working to beautify and improve the community and continuing the legacy of civic engagement and community organization that propelled the City Beautiful movement from idea to action in the first place. Accounting for the club, the work they performed, and their guiding philosophy is crucial for understanding Cleveland, Bradley County, and the surrounding area historically during the long-nineteenth century and into the twentieth.

## Conclusion

In the end, the City Beautiful movement as a whole did not reach the level of success, at least in terms of practical outcomes, that its leaders would likely have preferred. However, when considering urban issues, cities are ultimately defined by the people who live there and not by the buildings, streets, or parks they use, despite the symbiotic relationships they all share. While their work was no doubt incomplete, the members of the movement did at least, in most cases, make some strides in improving the living conditions in the cities in which they worked to do so. Searching for complete solutions to complex problems that incorporate social, legal, political, technological, and economic elements is often such an incredibly ambitious pursuit that any collective effort, no matter how well-executed, is likely to fall short of the mark. However, that failure to completely resolve the issues they faced should not discount the positive outcomes that groups such as the City Beautiful produced in many cities across the nation.

Cleveland, Tennessee was a clear beneficiary of this incomplete success. Institutions often rise and fall in popularity and effectiveness, change their priorities over time, divide into separate groups, and combine with others. The City Beautiful Club of Cleveland was no exception. However, during its relatively short history, the club accomplished a great deal of practical improvements around town that both enhanced Cleveland's physical appearance and led to increased quality of life for its citizens. Much like the City Beautiful movement more broadly, it applied abstract ideas to real-world problems, thereby bridging the gap between philosophy and action. Furthermore, this provides a crucial historical example of a group that was inspired by distinctly nineteenth-century American values that worked to find practical solutions to the inherent problems of urbanization and industrialization within the social, legal, and political contexts of long nineteenth-century America. Ultimately, they were guided by a

variety of philosophies that, when combined, formed a worldview that both inspired positive change in their society and restricted the practical mechanisms through which they could achieve those goals.

As they faced the problem of uncontrolled hogs roaming the streets of their town, the club's members relied upon their guiding philosophies, particularly those inspired by the works of Frederick Law Olmsted to find solutions. This issue posed a serious threat to the City of Cleveland. Health, safety, and welfare were regulated easily enough through the mechanisms of local governance derived from "police power" inherited from the English system of law. However, the City Beautiful Club and the broader national movement of which it was a part cared deeply about issues beyond the most conspicuous concerns of health, safety, and welfare. Furthermore, they believed that beautification was a much deeper process than surface-level cosmetic enhancement. Cleaning up the city was more than trimming hedges, planting trees, and installing drinking fountains, though, they of course did those too. Cleaning up the city meant that the citizens of that city would live happier, healthier lives, commit less crime, and essentially behave in a morally upstanding way. In short, they believed that improvement of the built environment led to tangible positive change in the society itself.

This belief, that the organization of the physical space in city was inseparable from consideration of the social needs of the people in that city, was an essential part of the larger City Beautiful movement's ideology, as well. In fact, it was through advancement of this conviction that the movement gave way to the first professional planning and comprehensive zoning movement in America by the second decade of the twentieth century, and, for the purposes of this discussion at least, effectively ended the long nineteenth century. The City Beautiful as an organized movement did not take root in a vacuum, of course. Long-standing and distinctly

nineteenth-century American traditions of civic engagement, community-based organization, and values oriented towards the good of society at large combined to form a larger political culture that some scholars have attributed to the legacy of the American Whig Party. Within this social paradigm, the City Beautiful movement grew in response to the increasingly common practical issues urbanization and industrialization brought to American cities of all sizes.

Similarly, the efficacy of an ordinance banning swine from the city limits rested upon several legal and political conditions. The power of the local government to regulate land use for the public good was settled law, but did not guarantee enforcement of that law. The ordinance in Cleveland, Tennessee, after all, even following amendments, still did not solve the nuisance issues of the swine roaming the streets of town. No matter how well-intentioned or profound an idea may be, then, its execution is what ultimately decides the outcome. As the City Beautiful Club of Cleveland's members had no direct political power or constabulary authority to enforce the law themselves, they were essentially limited to asking the government to do its job in this particular case and had no other recourse.

At the national level, the City Beautiful movement's ideology drew criticism from more pragmatic architects and community leaders. For some, such as Frank Lloyd Wright, who believed that American architecture and design should follow more distinctly American themes and styles, the City Beautiful aesthetic, inspired by Romantics such as Wordsworth and Friederich, was simply too European both in character and origin. This was exacerbated after World War One when artistic sensibilities shifted towards modernism and American architecture largely embraced the International Style due to its simplicity and cost-effectiveness.

Ideology aside, the City Beautiful movement's methods were not without fault either. Its insistence that beautification would cure all of society's most pressing issues, even though they

meant a deeper sense of beauty than the skin-deep sentiment the movement's name may suggest at first glance, did not fully account for systemic or hegemonic forces in communities that may have reinforced the status quo at best or, at worst, worked against the public good at every turn. Likewise, the broader American Whig political culture that encouraged the movement's spread also hampered its ability, or willingness, to capitalize on concurrent rises in populism and progressivism during the 1890s-1920s by incorporating a more democratic approach or class-inclusive machinery.

Despite the movement's shortcoming and the individual clubs' varying effectiveness facing their own challenges, the City Beautiful example sheds light on several distinctive elements of nineteenth-century America. The broader political tradition in America that the City Beautiful movement developed out of espoused a well-regulated society and placed the public health, safety, and welfare of the community over the needs and desires of individuals. The legal framework supported this point of view and legitimized efforts to regulate land use in urban environments despite its potential to infringe on the rights of individuals, despite a common misconception that nineteenth-century America was a classically liberal or "stateless" society. Finally, the movement itself led to the profession of urban planning and the system of comprehensive zoning that effectively ended the long nineteenth century in America and would govern urban development in nearly every American city from the twentieth century onward. As the nation's population shifted further and further from a rural base to urban, American culture, politics, and economy followed suit with cities and the built environment playing a much larger role in American life than any time previously. The City Beautiful movement, though it was relatively short-lived, was a vital part of this process and accounting for its influence is crucial

for understanding nineteenth-century America, urbanization, and their roles in American History more broadly.

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## Appendix

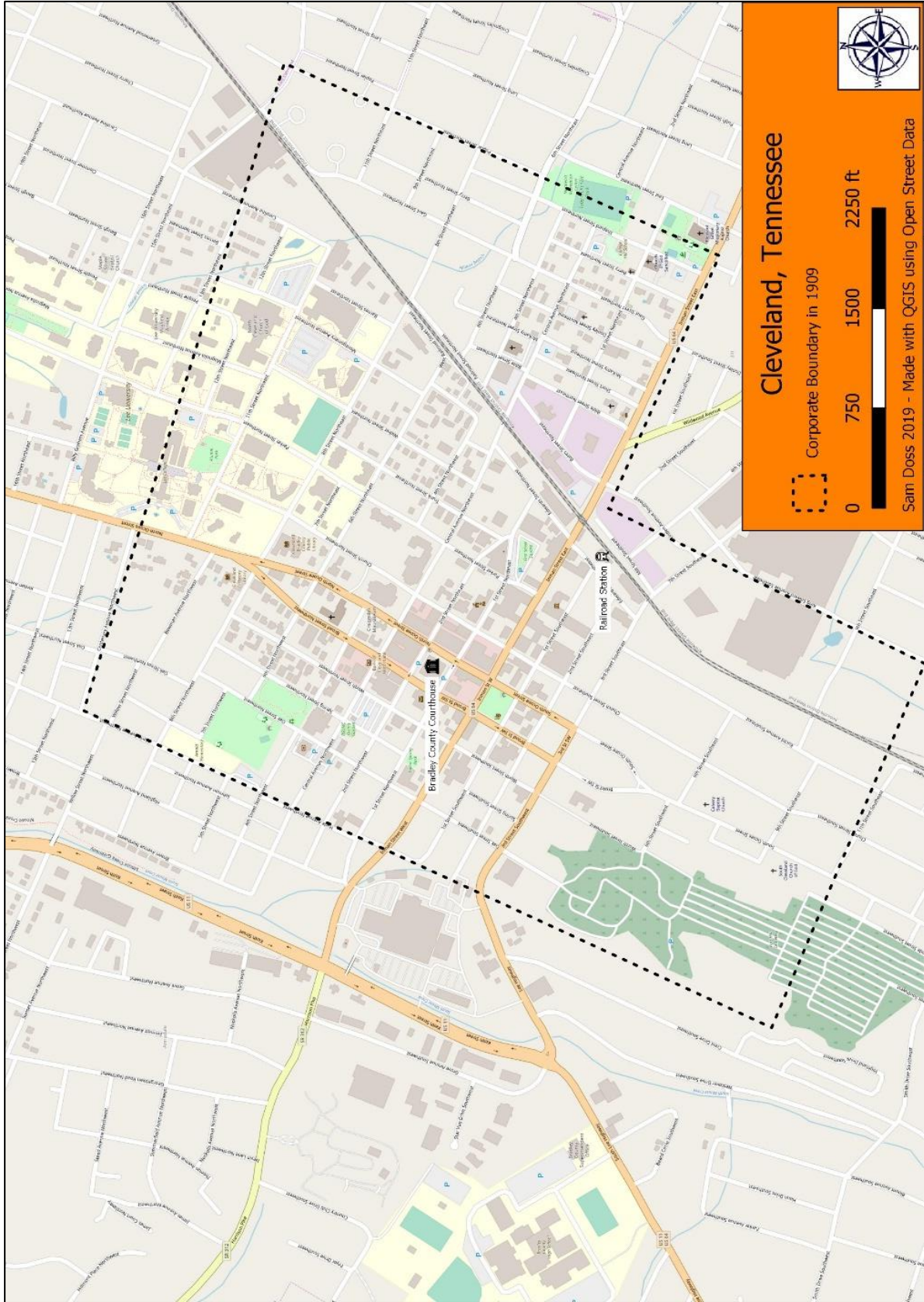


Figure 1: Map of Cleveland, Tennessee

Table 1: Percentage of United States Population Residing in Urban and Rural Areas<sup>80</sup>

<b>Year</b>	<b>Urban</b>	<b>Rural</b>
1790	5.1%	94.9%
1800	6.1%	93.9%
1810	7.3%	92.7%
1820	7.2%	92.8%
1830	8.8%	91.2%
1840	10.8%	89.2%
1850	15.4%	84.6%
1860	19.8%	80.2%
1870	25.7%	74.3%
1880	28.2%	71.8%
1890	35.1%	64.9%
1900	39.6%	60.4%
1910	45.6%	54.4%
1920	51.2%	48.8%
1930	56.1%	43.9%
1940	56.5%	43.5%
1950	64.0%	36.0%
1960	69.9%	30.1%
1970	73.6%	26.4%
1980	73.7%	26.3%
1990	75.2%	24.8%
2000	79.0%	21.0%

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<sup>80</sup> “Selected Historical Decennial Census Population and Housing Counts,” United States Census Bureau, <https://www.census.gov/population/www/censusdata/hiscendata.html>.



## Vita

Samuel Doss is a lifelong resident of Tennessee. He received a Bachelor of Arts in Music and a Bachelor of Arts in History from Lee University in Cleveland, Tennessee in 2015. In 2017 he began graduate study at the University of Tennessee, Knoxville with the intention of connecting his interests in land-use regulation and history, particularly during the nineteenth century. He has over four years of experience in private-sector urban planning and has performed extensive municipal research and prepared reports for commercial, residential, and industrial clients in hundreds of jurisdictions throughout the United States. His topics of expertise include land-use restrictions, signage regulations, and public health requirements for food service establishments.