



## CITY COMMISSION MEETING AGENDA

CITY COMMISSION

DAYTON, OHIO

MAY 4, 2016

6:00 P.M.

### I. AGENDA SCHEDULE

**Please register to speak on items 9, 11 and 13 with the Clerk of the Commission.**

**(Sign-up sheets at entrance of Commission Chambers.)**

1. Call Meeting to Order
2. Invocation
3. Pledge of Allegiance
4. Roll Call
5. Approval of Minutes
6. Communications and Petitions Distribution (if any)
7. Special Awards/Recognition
8. Discussion of City Manager's Recommendations (See Section II)
9. Citizen Comments on City Manager's Recommendations
10. City Commission Action on City Manager's Recommendations
11. Public Hearings: **(See Section V)**
12. Discussion Item: N/A
13. Comments by Citizens - Please register to speak with the Clerk of Commission - (Non - Calendar items) sign-up sheets at entrance of Commission Chambers
14. Comments by City Manager
15. Comments by City Commission
16. Work Session: **Finance Committee Briefing – (B. LaBrier) – 4:30 p.m.**  
**City Manager's Large Conference Room**
17. Miscellaneous (See Section VI)

### II. CITY MANAGER RECOMMENDATIONS (Item #8 above)

The following recommendations are offered for City Commission approval.

#### A. Purchase Orders, Price Agreements and Contracts:

**(All contracts are valid until delivery is complete or through December 31<sup>st</sup> of the current year).**

#### 1. Purchase Order:

##### **FIRE**

**A1. Zoll Medical Corp.** (Defibrillator equipment and related supplies as needed through 12-31-16)

**\$10,000.00**

1. (Cont'd):

**RECREATION & YOUTH SERVICES**

**B1. Prolift Industrial Equipment Co.** (one used 2007 model year Toyota brand forklift) **\$27,000.00**

**WATER**

**C1. Rotork Controls Inc.** (Rotork brand actuator repair parts and service as needed through 12-31-16) **20,000.00**  
-Depts. of Fire, Recreation & Youth Services, and Water. **Total: \$57,000.00**

**B. Construction Contracts/Estimates of Cost:**

2. **John R. Jurgensen Company – Contract** – for the 2016 Residential Asphalt Resurfacing (15% MBE Participation Goal/15% MBE Achieved) (5% WBE Participation Goal/5.01% WBE Achieved) – Dept. of Public Works/Civil Engineering. **\$781,968.00**
3. **John R. Jurgensen Co. – Contract** – for the 2016 Thoroughfare Asphalt Resurfacing (Permissive Tax Funds) (15% MBE Participation Goal/15% MBE Achieved) (5% WBE Participation Goal/5.01% Achieved) – Dept. of Public Works/Civil Engineering. **\$837,669.00**

**IV. LEGISLATION:**

**Emergency Ordinance – First and Second Reading:**

4. **No. 31488-16** Approving the Rules and Regulations of the City of Dayton, Ohio Environmental Advisory Board, and Declaring an Emergency.

**V. PLANNING ACTION**

**A. PUBLIC HEARINGS:**

5. To rezone 0.86 acres located at 129 South Perry Street from CBD Central Business District to CI Campus-Institutional to allow for a new addition to the Health Sciences Building at Sinclair Community College. – **Case No. Z-002-2016.**
6. To amend various sections of the Zoning Code to correct omissions in the code, clarify terminology and provisions, make certain regulations consistent from one zoning district to another, and update regulations to reflect experience to date and emerging best practices. The proposed amendments will improve the administration and enforcement of the code. – **Case No. Z-003-2016.**

**VI. MISCELLANEOUS:**

**ORDINANCE NO. 31489-16**

**RESOLUTION NO. 6189-16**

**IMPROVEMENT RESOLUTION NO. 3598-16**

**INFORMAL RESOLUTION NO. 921-16**

CITY OF DAYTON  
CITY MANAGER'S REPORT

TO: City Manager

Date May 4, 2016

FROM: Central Services / Purchasing  
*Department/Division*

Code \_\_\_\_\_

(CHECK ONE)

Amount \$ 57,000.00

- Purchase Order
- Price Agreement
- Award of Contract
- Other \_\_\_\_\_
- Lease Agreement
- Estimate of Cost
- Payment of Voucher

Supplier/Vendor/Company/Individual:

NAME See Below  
ADDRESS \_\_\_\_\_  
\_\_\_\_\_

Justification and description of purchase, contract or payment:

FIRE

P1600713 – ZOLL MEDICAL CORP., CHELMSFORD, MA

- Defibrillator equipment and related supplies, as needed through 12/31/2016.
- These goods are required to maintain, repair or replace defibrillators.
- Zoll Medical Corporation is recommended as the original equipment manufacturer (OEM), therefore this purchase was negotiated.
- This amendment increases the originally authorized amount of \$35,000.00 by \$10,000.00 for a total not to exceed \$45,000.00 and therefore requires City Commission approval.
- The Department of Fire recommends approval of this order.
- Authority: \$10,000.00

Approved Affirmative Action Program on File  Yes

No  NA

Approved by City Commission

Division [Signature]

Clerk \_\_\_\_\_

Department [Signature]

Date \_\_\_\_\_

City Manager

RECREATION AND YOUTH SERVICES – CONVENTION CENTER

(B1) P1600881 – PROLIFT INDUSTRIAL EQUIPMENT CO, HUBER HEIGHTS, OH

- One (1) used, 2007 model year Toyota brand forklift.
- This equipment is required to perform daily operations of the Convention Center.
- This forklift is a lightly used unit. A comparable new unit would cost approximately \$52,000.00, therefore this purchase was negotiated.
- The Departments of Recreation and Youth Services and Public Works (Fleet Management) recommend approval of this order.
- Authority: \$27,000.00

WATER – WATER RECLAMATION

(C1) P1600807 – ROTORK CONTROLS INC., ROCHESTER, NY

- Rotork brand actuator repair parts and service, as needed through 12/31/2016.
- These goods and services are required to maintain, repair or replace Rotork brand actuators.
- Rotork Controls, Inc. is recommended as the original equipment manufacturer (OEM) and sole source, therefore this purchase was negotiated.
- The Department of Water recommends approval of this order.
- Authority: \$20,000.00

The aforementioned departments recommend approval of these orders.

CITY OF DAYTON  
CITY MANAGER'S REPORT

2.

TO: City Manager

Date May 4, 2016

FROM: Public Works/Civil Engineering  
Department/Division

49601-6450-1424-54 \$758,218.00  
53003-3420-1424-54-WF1004 \$5,000.00  
55004-3420-1424-54-SF1001 \$9,250.00  
Code 58002-3420-1424-54-ST1001 \$9,500.00

Fund Title 2016 Infrastructure Improvements  
Water Engineering

Amount \$ \$781,968.00

(CHECK ONE)

- Purchase Order
- Price Agreement
- Award of Contract
- Other \_\_\_\_\_
- Lease Agreement
- Estimate of Cost
- Payment of Voucher

Supplier/Vendor/Company/Individual:

NAME John R. Jurgensen Company  
ADDRESS 1780 Enon Road  
Springfield, OH 45502

Justification and description of purchase, contract or payment:

**2016 RESIDENTIAL ASPHALT RESURFACING**  
**(15% MBE PARTICIPATION GOAL/15% MBE ACHIEVED)**  
**(5% WBE PARTICIPATION GOAL/5.01% WBE ACHIEVED)**

This project consists of the asphalt resurfacing of various streets throughout the city of Dayton. Work includes the grinding of existing asphalt, application of tack coat, asphalt, and performing other work incidental thereto.

Two bids were received for this project. It is recommended that the contract be awarded to the lowest bidder, John R. Jurgensen Company, in the amount of \$781,968.00. This amount includes the Base Bid in the amount of \$681,968.00 and Alternate No. 1 Contingency Allowance in the amount of \$100,000.00. The estimated cost for the project was \$853,000.00. The time bid for completion is 75 calendar days.

This project is being funded using 2016 Infrastructure Improvements and Water Engineering Funds.

A Certificate of Funds, Tabulation of Bids, Human Relations Council's verification letter, Bid Form from the firm recommended for award, and Street List are attached.

Approved Affirmative Action Program on File  Yes  No  NA

Approved by City Commission

Clerk

Date

Division

Department

City Manager







**MEMORANDUM**

April 8, 2016

TO: Frederick Stovall, Director  
Department of Public Works

FROM: RoShawn Winburn, Business and Technical Assistance Administrator *AW*  
Human Relations Council (HRC)

SUBJECT: **2016 Residential Asphalt Resurfacing (15% MBE & 5% WBE)**

The apparent low bidder, John R. Jurgensen, submitted a bid utilizing two certified contractor to meet the participation goals. The HRC contract compliance analysis of the bids submitted verified the company is an approved bidder in the City of Dayton Affirmative Action Assurance program and that the authorized representative signed the Contractor's Certification to indicate fair hiring practices. The recommended company to receive the aforementioned construction award is as follows:

<b>RECOMMENDED RANK ORDER</b>	<b>PERCENTAGE OF PARTICIPATION</b>
1. John R. Jurgensen	
A. MINORITY BUSINESS ENTERPRISE	
WC Jones Asphalt & Paving Co	15.00%
B. WOMEN BUSINESS ENTERPRISE	
First Star Safety	5.01%
C. SMALL BUSINESS ENTERPRISE	
D. DAYTON LOCAL SMALL BUSINESS	
E. DISADVANTAGED BUSINESS ENTERPRISE	
F. HUD SECTION 3 BUSINESS ENTERPRISE	
 TOTAL PARTICIPATION	<hr/> 15.00% MBE 5.01% WBE

The attached participation verification letters should be included with the contract agreement. Contract Compliance will include meeting verified participation and minimal worker utilization goals as stated in the Affirmative Action Program Equal Employment Opportunity form certified in the bid submission. If you have any questions or need additional information please contact RoShawn Winburn at 333-1403.

# W. C. Jones Asphalt Paving Co., Inc.

905 South Broadway St.  
Dayton, Ohio 45417

Office (937) 228 - 1253  
Fax (937) 228 - 9300

Email: [wcyjonesasphalt@sbcglobal.net](mailto:wcyjonesasphalt@sbcglobal.net)

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April 13, 2016

Ms. Juleda Hyde  
City of Dayton  
Human Relation Council  
317 West Second Street, Suite 100  
Dayton, Ohio 45402

Re: CITY OF DAYTON'S 2016 RESIDENTIAL ASPHALT RESURFACING (15% MBE & 5% WBE PARTICIPATION)

GENERAL CONTRACTOR: JOHN R. JURGENSEN  
1780 ENON ROAD  
SPRINGFIELD, OHIO 45502  
PH (937) 882-6233

I am supplying the following information in response to your request made on April 12, 2016.

<u>Description</u>	<u>Qty</u>	<u>Units</u>	<u>Labor</u>	<u>Material</u>	<u>Total Unit Cost</u>	<u>Total</u>
Asphalt Paving – Type 404	1,186	Tons	25.50	60.00	85.50	\$101,403.00
Tack – Type 407	1,000	Gals	0.50	4.00	4.50	\$ 4,500.00
<b>TOTAL MBE PARTICIPATION</b>						<b>\$105,903.00</b>

Should you have any questions or require additional information, please feel free to contact our office at the number listed above or via email.

Regards,

*Mr Leo C. Lucas I, President*

Leo C. Lucas I, President



City of Dayton  
Human Relations Council  
371 West Second Street, Suite 100  
Dayton Ohio 45402-1417

April 10, 2016

REF: City of Dayton's 2016 Residential Asphalt Resurfacing (15% MBE and 5% WBE Participation)

Project Name: City of Dayton's 2016 Residential Asphalt Resurfacing

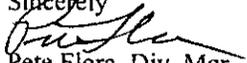
**This letter covers the MBE participation**

Name of Subcontractor: WC Jones  
905 South Broadway  
Dayton Ohio 45408  
  
Ph 937-228-1253

For the 15% MBE participation:

Description:	Qty	Units:	Labor:	Material:	Total Unit Cost:	Extended Total:
Asphalt Paving 404	1186	Tons	\$25.50	\$60.00	\$85.50	\$101,403.00
Tack	1000	GA	\$0.50	\$4.00	\$4.50	\$4500.00
Total for MBE participation:						\$105,903.00

Any further questions, please feel free to contact me

Sincerely  
  
Pete Flora, Div. Mgr.  
John R. Jurgensen Co.

**John R. Jurgensen**  
COMMERCIAL & MUNICIPAL



City of Dayton  
Human Relations Council  
371 West Second Street, Suite 100  
Dayton Ohio 45402-1417

April 10, 2016

REF: City of Dayton's 2016 Residential Asphalt Resurfacing Rebid (15% MBE Participation, & 5% WBE)

Project Name: City of Dayton's 2016 Residential Asphalt Resurfacing

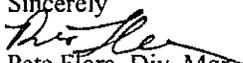
**This letter covers the WBE participation:**

Name of Subcontractor: First Star Safety  
4 Kovach Drive  
Cincinnati OH 45215

Phone: 513-661-7827

Description:	Qty	Units:	Total Unit Cost:	Extended Total:
Traffic Border Signs	1	LS	\$35,000.00	\$35,000.00
			First Star Total:	\$35,000.00
			Total for WBE:	\$35,000.00

Any further questions, please feel free to contact me

Sincerely  
  
Pete Flora, Div. Mgr.  
John R. Jurgensen Co.



# CITY OF DAYTON, OHIO

## HUMAN RELATIONS COUNCIL

371 West Second Street, Suite 100, Dayton, OH 45402-1417

(937) 333-1403 • FAX 222-4589

[www.daytonohio.gov/departments/hrc](http://www.daytonohio.gov/departments/hrc)

April 12, 2016  
VIA ELECTRONIC MAIL

First Star Safety  
4 Kovach Drive  
Cincinnati, OH, 45215

To whom it may concern:

As you are aware, you were listed by John R. Jurgensen Co. as a subcontractor on the City of Dayton's 2016 Residential Asphalt Resurfacing (15% MBE & 5% WBE Participation). The following must be submitted on your letterhead to our office by close of business on Thursday, April 14, 2016:

1.	Name of Project	2016 Residential Asphalt Resurfacing
2.	Name of Prime Contractor	John R. Jurgensen
3.	City and State of Prime Contractor	Cincinnati, Ohio
4.	Project work division area(s) to be performed and list the specific segment of work you will perform according to the plans and specifications	Mot. Traffic Border Signs
5.	For each segment of the work you will perform	Lump Sum
	Unit Cost	\$35,000
	Total Cost	\$35,000
6.	Cost breakdown for each segment of work you will perform	N/A
	Material	
	Labor	
7.	Indicate your markup or profit on the materials purchased (not ordinarily in stock) and all specific items that are specialized electrical equipment or any other specialized or sole-source equipment.	N/A
8.	If this is a trucking company, list:	N/A
	Number of trucks	
	Types of truck(s)	
	Describe the work you will perform	
	Type of material	
	Number of hours	

If you have any questions or need additional information, contact me at (937) 333-1405.

Sincerely,

*Juleda Hyde*

Juleda Hyde, Contract Compliance Officer

Copy to: Ms. Catherine Crosby



Catherine H. Crosby  
Executive Director

Board of Directors

Amaha Sellassie  
Chair

Rev. Dr. Sherry Gale  
Vice-Chair

Dr. Olatokunbo  
Awoshakin  
Scotty Didier  
Rev. Darryl Fairchild  
Dwayne Johnson  
Michelle Kaye  
Kiya Patrick  
Michael White



4 Kovach Drive, Suite 430, Cincinnati, OH 45215 • 513-661-STAR • f: 513-661-7829 • info@firststarsafety.com

April 13, 2016

City of Dayton, Ohio  
Human Relations Council  
371 West Second Street, Suite 100  
Dayton, Ohio 45402-1417

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Please let us know if you have any questions about the information provided below, or if you need anything further. Thank you.

1. **Name of Project:** City of Dayton's 2016 Residential Asphalt Resurfacing
2. **Name of Prime Contractor:**  
John R. Jurgensen Company  
11641 Mosteller Road
3. **City and State of Prime Contractor:** Cincinnati, Ohio 45241
4. **Project Work Division Areas:**  
MOT: Traffic Border Signs
5. **Segment of Work Performed:**  
Maintaining Traffic (Border Signs)  
Unit Cost: \$35,000.00 Total: \$35,000.00
6. **Cost Breakdown:** N/A
7. **Mark Up or Profit:** N/A
8. **Trucking Company:** N/A

*"At First Star Safety, LLC, your safety is our first priority!"*

**NOTE TO CONTRACTORS:**

Since there will be copies made of the bid form of this improvement, please use black ink or a typewriter to fill in the bid prices and extensions.

**CITY OF DAYTON, OHIO  
DEPARTMENT OF PUBLIC WORKS**

Bid Form 2016 Residential  
Asphalt Resurfacing  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Bidder John R Jurgensen Co  
1780 Eden Road  
Springfield OH 45502  
\_\_\_\_\_

**BID FORM**

To: Director, Department of Public Works  
The City of Dayton

The undersigned, having full knowledge of the site and the provisions of the plans and specifications for the following improvement, and the conditions of this bid, hereby agrees to furnish all services, labor, materials and equipment, and to construct in every respect complete:

**2016 RESIDENTIAL ASPHALT RESURFACING**

**(15% MBE AND 5% WBE PARTICIPATION)**

in accordance with said plans and specifications on file in the office of the City Engineer at the unit prices hereinafter set forth.

<b>ITEM NO.</b>	<b>DESCRIPTION</b>	<b>EST. QUANT.</b>	<b>UNIT</b>	<b>UNIT PRICE</b>	<b>TOTAL \$</b>
202	Grinding Existing Pavement	57,360	S.Y.	<u>1.30</u>	<u>74568.00</u>
407	Tack Coat	5,740	Gal	<u>1.00</u>	<u>5740.00</u>
ODOT 442	Asphalt Concrete Surface Course, 12.5MM, Type A (448) (2")	6,374	Tons	<u>76.00</u>	<u>484424.00</u>
614	Maintenance of Traffic	1	Lump	<u>42281.40</u>	<u>42281.40</u>
644	Centerline (4"-4"-4")	506	LF	<u>2.40</u>	<u>1214.40</u>
644	Edge Line (4") White	1,020	LF	<u>1.21</u>	<u>1234.20</u>
836	Manhole Adjusted	75	Each	<u>250.00</u>	<u>18750.00</u>
846	Water Valve Box Adjusted	50	Each	<u>100.00</u>	<u>5000.00</u>
SPL	Asphalt Rejuvenating Agent (0.1 GAL/SY)	57,360	S.Y.	<u>.85</u>	<u>48756.00</u>
<b>TOTAL BASE BID \$</b>				<u><u>681968.00</u></u>	

In determining the lowest and best bid the City Commission may give consideration to the following alternate bids:

**ALTERNATE NO. 1**  
**CONTINGENCY ALLOWANCE**

This Alternate is for a "CONTINGENCY ALLOWANCE" to be used in the event of unforeseen work which must be undertaken to complete this project. The work could be as additional quantities to the bid items or as non-bid items. The amount of this "ALLOWANCE" may vary as determined by the Engineer, but shall not exceed the maximum of **\$100,000.00**.

<b><u>ITEM</u></b>		<b><u>EST.</u></b>	<b><u>UNIT</u></b>	<b><u>UNIT</u></b>	
<b><u>NO.</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>QUANT.</u></b>	<b><u>UNIT</u></b>	<b><u>PRICE</u></b>	<b><u>TOTAL \$</u></b>
SPL	Contingency Allowance	1	LUMP	\$ 100,000.00	\$ 100,000.00
<b>TOTAL ALTERNATE NO. 1</b>				<b>\$</b>	<b><u>100,000.00</u></b>

The consideration to be paid for the performance of the Contract of the above described project is provided as follows: This information provides for the issuance of the tax-exempt form for the purchase of materials for this project.

<u>DESCRIPTION</u>	<u>CONSIDERATION FOR MATERIALS</u>	<u>CONSIDERATION FOR OBLIGATIONS</u>	<u>TOTAL \$</u>
TOTAL BASE BID	\$ <u>381,968.00</u>	\$ <u>300,000.00</u>	\$ <u>681,968.00</u>
TOTAL ALT. NO. 1 (Contingency Allowance)	\$ _____	\$ <u>100,000.00</u>	\$ <u>100,000.00</u>

The time of completion fixed by the City is 75 Calendar Days

Following are the names of all persons, firms, and corporations interested in the above bid as principals. If none, state that "No person or party other than the bidder is interested in this Bid."

NAME

ADDRESS

"No person or party other than the bidder is interested in this Bid"

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## DISCLOSURE OF LITIGATION

Disclosure of Litigation: Have you or any person, group, partnership, company, or corporation affiliated with you been engaged in the past three (3) years in litigation, mediation or any form of contractual dispute resolution with any state government or any political subdivision thereof including, without limitation, the State of Ohio, the City of Dayton, Ohio, or Montgomery County, Ohio? For the purpose of your response, “affiliated” means directly or indirectly controlling, controlled by, or under common control, with “control” meaning legally or operationally in a position to exercise restraint or direction over the other.

RESPONSE: YES \_\_\_\_\_ NO X

If your response is “YES” please separately identify each lawsuit, mediation or dispute resolution process in which you or your affiliate have been engaged during the past three (3) years. Identify the nature of the dispute, the parties involved, and the current status of the dispute. Attach or include any information you believe pertinent to a full understanding of the disputed matters.

Bidder is

An Individual  
Firm Name

Business Address

Telephone

Partnership  
Firm Name

Members of Firm and  
Their Business Address

Telephone

Corporation  
Name

State of Incorporation

Name and Title of  
Officers with Authority  
to Sign Contract

Home Office Address

Local Address

John R Jurgensen Co

Ohio

Robert M Steier V.P., Peter W Flora Division  
manager  
James P Jurgensen Pres.,

11641 Mosteller Road Cincinnati OH 45241

1780 Enon Road Springfield OH 45502

Telephone 937 882 6233 Fax 937-882-6957

E-mail Pete.Flora@jrcnet.com

Federal I.D.# 31-0578656

Dated this 7<sup>th</sup> day of April, 2016

Bidder: John R Jurgensen Co  
(Person, Firm, or Corporation)

By: *Paul Flora*

Title: Division Manager



**BID BOND**

Amount \$ Ten Percent (10%) of the bid amount

We, the undersigned, are held and firmly bound unto the City of Dayton, Ohio in the sum of Ten Percent (10%) of the bid amount\*\* Dollars, for the payment of which well and truly to be made, we hereby, jointly and severally, bind ourselves, our heirs, executors, and administrators, firmly by these presents.

The condition of this obligation is such that, if the Bid attached hereto is accepted and the Contract award to the bidder, John R. Jurgensen Company

named therein, and the said bidder shall within ten (10) days after being notified that said contract has been awarded to the bidder, enter into a Contract in the form acceptable to the Director and give bond in a form to be furnished by the Director, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

Signed and sealed at Dayton, Ohio, this 7th day of April, 2016.

John R. Jurgensen Company

By: *Patricia* Division Manager  
Bidder

Federal Insurance Company

By: *Christina Arvizu*  
Surety

Christina A. Arvizu, Attorney-in-Fact

Arthur J. Gallagher Risk Management Services, Inc.

Name of Insurance Agency

1 West 4th Street, Suite 1300  
Cincinnati, Oh 45202

Address of Insurance Agency

Telephone 513-977-3100 FAX 513-977-3618



**Chubb  
Surety**

**POWER  
OF  
ATTORNEY**

**Federal Insurance Company  
Vigilant Insurance Company  
Pacific Indemnity Company**

**Attn: Surety Department  
15 Mountain View Road  
Warren, NJ 07059**

Know All by These Presents, That **FEDERAL INSURANCE COMPANY**, an Indiana corporation, **VIGILANT INSURANCE COMPANY**, a New York corporation, and **PACIFIC INDEMNITY COMPANY**, a Wisconsin corporation, do each hereby constitute and appoint **Christina A. Arvizu, Thomas R. Dietz, Robert E. Gigax Jr., Patricia L. Hehman, Shelly M. Martin and Phyllis T. Neal** of Cincinnati, Ohio and **William R. Carpenter** of Brentwood, Tennessee

each as their true and lawful Attorney- in- Fact to execute under such designation in their names and to affix their corporate seals to and deliver for and on their behalf as surety thereon or otherwise, bonds and undertakings and other writings obligatory in the nature thereof (other than bail bonds) given or executed in the course of business, and any instruments amending or altering the same, and consents to the modification or alteration of any instrument referred to in said bonds or obligations.

In Witness Whereof, said **FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY** have each executed and attested these presents and affixed their corporate seals on this **17<sup>th</sup>** day of **November, 2014**.

Dawn M. Chloros, Assistant Secretary

David B. Norris, Jr., Vice President



STATE OF NEW JERSEY

ss.

County of Somerset

On this **17<sup>th</sup>** day of **November, 2014** before me, a Notary Public of New Jersey, personally came Dawn M. Chloros, to me known to be Assistant Secretary of **FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY**, the companies which executed the foregoing Power of Attorney, and the said Dawn M. Chloros, being by me duly sworn, did depose and say that she is Assistant Secretary of **FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY** and knows the corporate seals thereof, that the seals affixed to the foregoing Power of Attorney are such corporate seals and were thereto affixed by authority of the By- Laws of said Companies; and that she signed said Power of Attorney as Assistant Secretary of said Companies by like authority; and that she is acquainted with David B. Norris, Jr., and knows him to be Vice President of said Companies; and that the signature of David B. Norris, Jr., subscribed to said Power of Attorney is in the genuine handwriting of David B. Norris, Jr., and was thereto subscribed by authority of said By- Laws and in deponent's presence.

Notarial Seal



**KATHERINE J. ADELAAR  
NOTARY PUBLIC OF NEW JERSEY  
No. 2316685  
Commission Expires July 16, 2019**

Notary Public

**CERTIFICATION**

Extract from the By- Laws of **FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY**:

"All powers of attorney for and on behalf of the Company may and shall be executed in the name and on behalf of the Company, either by the Chairman or the President or a Vice President or an Assistant Vice President, jointly with the Secretary or an Assistant Secretary, under their respective designations. The signature of such officers may be engraved, printed or lithographed. The signature of each of the following officers: Chairman, President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary and the seal of the Company may be affixed by facsimile to any power of attorney or to any certificate relating thereto appointing Assistant Secretaries or Attorneys- in- Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such power of attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached."

I, Dawn M. Chloros, Assistant Secretary of **FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY** (the "Companies") do hereby certify that

- (i) the foregoing extract of the By- Laws of the Companies is true and correct,
- (ii) the Companies are duly licensed and authorized to transact surety business in all 50 of the United States of America and the District of Columbia and are authorized by the U.S. Treasury Department; further, Federal and Vigilant are licensed in the U.S. Virgin Islands, and Federal is licensed in American Samoa, Guam, Puerto Rico, and each of the Provinces of Canada except Prince Edward Island; and
- (iii) the foregoing Power of Attorney is true, correct and in full force and effect.

Given under my hand and seals of said Companies at Warren, NJ this **April 7, 2016**.



Dawn M. Chloros, Assistant Secretary

IN THE EVENT YOU WISH TO NOTIFY US OF A CLAIM, VERIFY THE AUTHENTICITY OF THIS BOND OR NOTIFY US OF ANY OTHER MATTER, PLEASE CONTACT US AT ADDRESS LISTED ABOVE, OR BY Telephone (908) 903-3493 Fax (908) 903-3656 e-mail: surety@chubb.com

# FEDERAL INSURANCE COMPANY

## STATEMENT OF ASSETS, LIABILITIES AND SURPLUS TO POLICYHOLDERS

Statutory Basis

DECEMBER 31, 2015

(in thousands of dollars)

<i>ASSETS</i>	<i>LIABILITIES AND SURPLUS TO POLICYHOLDERS</i>
Cash and Short Term Investments..... \$ 687,917	Outstanding Losses and Loss Expenses .... \$ 12,174,848
United States Government, State and Municipal Bonds..... 9,544,097	Unearned Premiums..... 3,726,665
Other Bonds..... 4,491,238	Dividends Payable to Stockholder..... 1,400,000
Stocks..... 692,901	Ceded Reinsurance Premiums Payable..... 329,694
Other Invested Assets..... 2,187,839	Provision for Reinsurance ..... 35,560
	Other Liabilities..... 1,295,093
TOTAL INVESTMENTS ..... 17,603,992	TOTAL LIABILITIES ..... 18,961,860
Investments in Affiliates:	
Chubb Investment Holdings, Inc..... 3,679,770	Capital Stock..... 20,980
Pacific Indemnity Company..... 2,930,246	Paid-In Surplus..... 3,106,809
Executive Risk Indemnity Inc..... 1,267,144	Unassigned Funds ..... 10,150,916
Chubb Insurance Investment Holdings Ltd... 1,020,650	
CC Canada Holdings Ltd..... 590,955	
Great Northern Insurance Company ..... 469,230	SURPLUS TO POLICYHOLDERS..... 13,278,705
Chubb Insurance Company of Australia Ltd. 404,845	
Vigilant Insurance Company..... 306,232	
Chubb European Investment Holdings SLP .. 294,200	
Other Affiliates ..... 566,480	
Premiums Receivable ..... 1,659,749	
Other Assets ..... 1,447,072	
TOTAL ADMITTED ASSETS ..... \$ 32,240,565	TOTAL LIABILITIES AND SURPLUS TO POLICYHOLDERS..... \$ 32,240,565

Investments are valued in accordance with requirements of the National Association of Insurance Commissioners. At December 31, 2015, investments with a carrying value of \$546,611,273 were deposited with government authorities as required by law.

State, County & City of New York, — ss:

Dawn M. Chloros, Assistant Secretary \_\_\_\_\_ of the Federal Insurance Company

being duly sworn, deposes and says that the foregoing Statement of Assets, Liabilities and Surplus to Policyholders of said Federal Insurance Company on December 31, 2015 is true and correct and is a true abstract of the Annual Statement of said Company as filed with the Secretary of the Treasury of the United States for the 12 months ending December 31, 2015.

Subscribed and sworn to before me  
this March 11, 2016.

*Jeanette Shipsey*  
\_\_\_\_\_  
Notary Public

*Dawn M. Chloros*  
\_\_\_\_\_  
Assistant Secretary

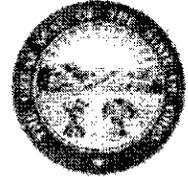
JEANETTE SHIPSEY  
Notary Public, State of New York  
No. 02SH5074142  
Qualified in Nassau County  
Commission Expires March 10, 2019

Office of Risk Assessment  
50 West Town Street  
Third Floor - Suite 300  
Columbus, Ohio 43215  
(614)644-2658  
Fax(614)644-3256  
www.insurance.ohio.gov

**Ohio Department of Insurance**

John R. Kasich - Governor  
Mary Taylor - Lt. Governor/Director

**Certificate of Compliance**



Issued 04/01/2016

Effective 04/02/2016

Expires 04/01/2017

I, Mary Taylor, hereby certify that I am the Lt. Governor/Director of Insurance in the State of Ohio and have supervision of insurance business in said State and as such I hereby certify that

**FEDERAL INSURANCE COMPANY**

of Indiana is duly organized under the laws of this State and is authorized to transact the business of insurance under the following section(s) of the Ohio Revised Code:

**Section 3929.01 (A)**

Accident & Health	Ocean Marine
Aircraft	Other Liability
Allied Lines	Private Passenger Auto - Liability
Boiler & Machinery	Private Passenger Auto - No Fault
Burglary & Theft	Private Passenger Auto - Physical Damage
Commercial Auto - Liability	Surety
Commercial Auto - No Fault	Workers Compensation
Commercial Auto - Physical Damage	
Credit	
Earthquake	
Fidelity	
Fire	
Glass	
Group Accident & Health	
Inland Marine	
Multiple Peril - Commercial	
Multiple Peril - Homeowners	

FEDERAL INSURANCE COMPANY certified in its annual statement to this Department as of December 31, 2015 that it has admitted assets in the amount of \$32,240,564,736, liabilities in the amount of \$18,961,859,982, and surplus of at least \$13,278,704,754.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused my seal to be affixed at Columbus, Ohio, this day and date.

*Mary Taylor*

Mary Taylor, Lt. Governor/Director



CITY OF DAYTON, OHIO  
Department of Public Works

Responsible Contractor Bidding Requirements  
(Form 1 of 3)

In accordance with Ordinance No. 30575-06 of the City of Dayton, Ohio Revised Code of General Ordinances, I, Peter W. Flora hereby certify that \_\_\_\_\_  
(print name – an Officer of the company)

John R. Jurgensen Co meets the following Contractor requirements relating  
(company)

to this City of Dayton construction project (check all that apply):

- Comply with all City of Dayton income tax obligations and requirements
- Maintain worker's compensation insurance for all employees as required by the State of Ohio
- Comply with State or Federal prevailing wage rate laws, as applicable and required by the funding of this project
- Comply with the State of Ohio Bureau of Worker's Compensation Drug Free Workplace Policy
- Made a good faith effort to contract with one or more qualified minority business enterprises to perform work required by this project, in accordance with bid documents, ordinances, and applicable Federal and State law

By: *Peter W. Flora*  
(signature)

Title: Division Manager

Date: 4/7/16

CITY OF DAYTON, OHIO  
Department of Public Works

Responsible Contractor Bidding Requirements  
(Form 2 of 3)

A. Please provide a complete listing of the fringe benefits provided to employees, including but not limited to health insurance and retirement benefits.

Vision Insurance \_\_\_\_\_  
Dental Insurance \_\_\_\_\_  
Life Insurance \_\_\_\_\_  
Short Term Disability \_\_\_\_\_  
Group Medical Insurance \_\_\_\_\_  
Defined Benefit Contribution Plan \_\_\_\_\_

B. Please identify any "bona fide apprentice training program" in which this company participates in accordance with the Ohio Bureau of Apprenticeship Training and the U. S. Department of Labor.

Ohio Laborers and Training Program \_\_\_\_\_  
Ohio Operating Engineer Training \* Apprenticeship Program \_\_\_\_\_  
\_\_\_\_\_

C. Please provide a list of subcontractors whose quotes or information are included or used in the bid submitted for this project.

WC Jones \_\_\_\_\_  
First Star \_\_\_\_\_  
Pavement Technologies \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

CITY OF DAYTON, OHIO  
Department of Public Works

Responsible Contractor Bidding Requirements  
(Form 3 of 3)

D. Please provide a list of all minority business enterprises contacted for the purpose of obtaining quotes to perform work for this project.

<u>Wc Jones</u>	

**CERTIFICATION  
OF COMPLIANCE WITH OHIO REVISED CODE SECTION 3517.13  
FOR CONTRACTS IN EXCESS OF FIVE HUNDRED DOLLARS (\$500.00)**

STATE OF OHIO,  
COUNTY OF Clark, ss:

Peter W Flora being duly sworn, deposes and states as follows:

1. I am duly authorized to make the statements contained herein on behalf of  
John R Jurgensen W ("the Contracting Party").

2. The Contracting Party is a/an (select one):

Individual, partnership, or other unincorporated business association (including without limitation, a professional association organized under Ohio Revised Code Chapter 1785), estate, or trust.

Corporation organized and existing under the laws of the State of Ohio.

Labor organization.

3. I hereby affirm that the Contracting Party and each of the individuals specified in R.C. 3517.93(I)(3) (with respect to non-corporate entities and labor organizations) or R.C. 3517.93(J)(3) (with respect to corporations) are in full compliance with the political contributions limitations set forth in R.C. 3517.93(I) and (J), as applicable. I understand that a false representation on this certification constitutes a felony of the fifth degree pursuant to R.C. 3517.93(AA) and 3517.992(R)(3). Any contract that contains a falsified certification shall be rescinded.

By: Peter W Flora

Title: Division Manager

STATE OF OHIO,  
COUNTY OF CLARK, ss:

Sworn to before me and subscribe in my presence by Peter W Flora



BRENDA E GRIMES-HANNAH  
Notary Public  
In and for the State of Ohio  
My Commission Expires  
April 06, 2018

Brenda E Grimes Hannah  
Notary Public

**CITY OF DAYTON  
CONTRACTOR NON-COLLUSION AFFIDAVIT  
TO BE NOTARIZED AND SUBMITTED WITH BID FORM**

STATE OF Ohio )  
 )                    SS:  
COUNTY OF Clark )

Peter W Flora, being first duly sworn deposes and states that:

(1) He/she is Division Manager of  
(owner, partner, officer, representative, or agent)

John R Jurgensen Co that  
(business or organization name)

(2) He/She is fully informed respecting the preparation and contents of the attached Bid and all pertinent circumstances respecting such Bid.

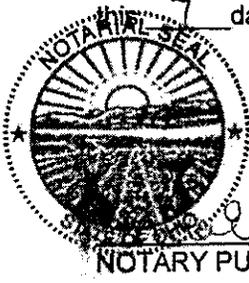
(3) Such offering is genuine and is not a collusive or sham offering

(4) Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived, or agreed, directly or indirectly with any other Bidder, firm or person to submit a sham Bid in connection with the Contract for which the attached Bid has been submitted or to refrain from offering in connection with such contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Bidder, or to secure through collusion, conspiracy, connivance or unlawful agreement any advantage against the City of Dayton, its employees, or citizens.

(5) The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest including the affiant.

Sworn to before me and subscribed in my presence

7 day of April, 2016.



BRENDA E GRIMES-HANNAH  
Notary Public  
In and for the State of Ohio  
My Commission Expires  
April 06, 2018

Peter W Flora  
SIGNED  
Division Manager  
TITLE

FAILURE TO SIGN AND SUBMIT THIS DOCUMENT WITH YOUR BID  
WILL RESULT IN YOUR BID NOT BEING READ

AFFIRMATIVE ACTION PROGRAM  
EQUAL EMPLOYMENT OPPORTUNITY

PROJECT: 2016 Residential Asphalt Resurfacing Various Streets  
NAME LOCATION

During the performance of this contract:

John R Jurgensen Co 1780 Enon Road Springfield 9378826233/9378826957  
CONTRACTOR ADDRESS TELEPHONE/FAX  
OH 45502

being the general contractor, assumes the responsibility and obligation to institute an Affirmative Action Program which complies with revised City Ordinances 24059 and 26090 and Executive Order 11246 on any city, federal or federally-assisted construction project, to insure Equal Employment Opportunity regardless of race, color, religion, sex, national origin, ancestry, place of birth, age, or marital status.

The successful contractor using one or more trades of construction employees must comply with Part I of these Affirmative Actions Program conditions to each such trade.

**Part I: Requirements.** To be eligible for award of a contract under this Invitation to Bid, contractors must certify as prescribed in Paragraph 1a, of the certification specified in Part II hereof that it adopts the minimum goals and timetables of minority and female worker utilization, and specific Affirmative Action steps set forth in Sections 1 and 2 of this Part I.

- 1.) **Goals & Timetables.** The goals of minority and female worker utilization required of the contractor are applicable to each trade which will be used on any project in Greene, Miami, Montgomery, and Preble Counties, OH (hereinafter the Economic Area).

The required goals and timetables are as follows:

	Goals of Minority Worker Utilization Expressed in Percentage Terms
From 1/1/2000 to Present	11.5%
	Goals of Female Worker Utilization Expressed in Percentage Terms
From 4/1/80 to Present	6.9%

The percentage goals of minority and female worker utilization are expressed in terms of working hours of training and employment as a proportion of the total working hours to be worked by the contractor's entire work force in that trade on all projects (both federal and non-federal) in the Economic Area during the performance of this contract. The working hours for minority and female work and training must be uniform throughout the length of this contract, on all projects and for each of the trades. Further, the transfer of minority and/or female or trainee from employer-to-employer or from project-to-project for the sole purpose of meeting the contractor's goals shall be a violation of this Affirmative Action Program.

In reaching the goals for minority and female utilization, every effort shall be made to find and employ qualified journey-persons. Provided, however, and pursuant to the requirements of the Department of Labor Regulations, 29 CFR 5a.3, twenty-five percent (25%) of apprentices or trainees shall be employed on all projects and shall be in their first year of training, where feasible.

In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the contractor during the training period, and the contractor must have made a commitment to employ the apprentices and/or trainees at the completion of the training subject to the availability of employment opportunities. Apprentices and trainees must be trained pursuant to programs which have been approved by The U.S. Department of Labor and/or The State of Ohio.

A contractor shall be deemed to be in compliance with the terms and requirements of this Part I by the employment and training of minorities and females in the appropriate percentage of the contractor's aggregate work force in the Economic Area for each trade for which it is committed to the goals under Part I.

However, no contractor shall be found to be in noncompliance solely on account of the contractor's failure to meet the goals and timetables, but such contractor shall be given the opportunity to demonstrate that all of the specific Affirmative Action steps specified in Part I have been instituted and has made every "good faith" effort to make these steps work towards the attainment of the goals and timetables.

- 2.) **Specific Affirmative Action Steps.** A contractor subject to Part I, must engage in Affirmative Action directed at increasing minority and female utilization, which is at least as extensive and as specific as the following steps:
  - a) The contractor shall notify community organizations that the contractor has employment opportunities available and shall maintain records of the organizations' responses.
  - b) The contractor shall maintain a file of the names and addresses of each minority and female referred and what action was taken with respect to each referred worker. If the worker was not employed, the reason therefor. If the worker was not sent to the union hiring hall for referral, the contractor's file shall document this and the reasons therefor.

- c) The contractor shall promptly notify the Dayton Human Relations Council (HRC) when the union or unions with which the contractor has a collective bargaining agreement has not referred to the contractor a minority and/or female, or when the contractor has other information that the union referral process has impeded the contractor's efforts to meet its obligations.
- d) The contractor should participate in training programs in the area; especially those approved by the U.S. Department of Labor and/or the State of Ohio.
- e) The contractor shall disseminate the EEO Policy within the organization by including it in any policy manual, by publicizing it in company newspapers, annual reports, etc.; by conducting staff, employee and union representatives' meetings to explain and discuss the policy; by posting of the policy; and by specific review of the policy with minority and female employees.
- f) The contractor shall ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites and in all facilities at which the contractor's employees are assigned to work. The contractor, where possible, will assign two or more women to all projects (both federal and non-federal) in the Economic Area during the performance of its contract or subcontract.
- g) The contractor shall make specific and constant personal (both written and oral) recruitment efforts directed at all minority and female organizations, schools, minority and female recruitment training organizations with the Dayton Economic Area.
- h) The contractor shall make specific efforts to encourage present minority and female employees to recruit other minorities and females.
- i) The contractor shall validate all tests and other selection requirements.
- j) The contractor should develop on-the-job training opportunities; participate and assist in any association or employer-group training programs relevant to the contractor's employees needs consistent with its obligations under Part I.
- k) The contractor shall evaluate all minority and female personnel for promotional opportunities and encourage employees to seek such opportunities.
- l) The contractor shall ensure that seniority practices, job classifications, etc., do not have a discriminatory effect.
- m) The contractor shall make certain that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
- n) The contractor will monitor all personnel activities to ensure that its EEO Policy is being carried out.

o) The successful contractor shall solicit bids for work to be performed on this project under a subcontract from minority and female contractors and other business associations.

3.) Nothing herein is intended to relieve any contractor during the term of this project from compliance with any other local bid requirements. Further, it shall be the responsibility of each contractor to comply with all terms, conditions, and provisions of the Affirmative Action Programs.

**Part II: Contractor's Certification.** A contractor will not be eligible for award of a contract under this Invitation to Bid, unless such contractor has submitted as a part of the bid the following certification, which will be deemed a part of the resulting contract:

**CONTRACTOR'S CERTIFICATION**

John R Jurgensen Co (Contractor)  
certifies that:

1. The following listed construction trades will be used in performance of this project.

<u>Operators</u>	_____
<u>Laborers</u>	_____
_____	_____
_____	_____
_____	_____
_____	_____

a) as to those trades set forth in the preceding paragraph one hereof, it adopts the minimum minority and female utilization goals and the specific Affirmative Action steps contained in this Affirmative Action Program. Compliance is measured in each trade of the contractor's aggregate work force for all construction work (both federal and non-federal) in the four Counties (Greene, Miami, Montgomery and Preble) subject to this Affirmative Action Program; and

b) the successful contractor will obtain from each subcontractor and submit to the contracting or administering agency prior to the award of any subcontract under this contract, the subcontractor certification required by the Affirmative Action Program.

SIGN: Paul Hoya Division Manager  
(Signature of Authorized Representative of Bidder)

**FAILURE TO SUBMIT AND SIGN THIS DOCUMENT WITH YOUR BID  
WILL RESULT IN YOUR BID NOT BEING READ**



15%

(Circle one: SBE/MBE/WBE/DLSB/DBE/HUD Section 3) PARTICIPATION FORM

Project Name:

2016 Residential Asphalt Resurfacing

This form may be used for more than one funding source. City of Dayton general fund and State of Ohio funds: The City of Dayton has adopted procurement programs for Minority-owned, Woman-owned, Small Business Enterprises, and Dayton Local Small Business in accordance with Sections 35.30 - 35.68 of the Revised Code of General Ordinances (R.C.G.O.), inclusively. Federal funds: The City of Dayton is committed to meeting HUD-established subcontracting and employment opportunities for HUD Section 3 companies certified with the Human Relations Council. This commitment applies to all projects funded through NSP/CDBG/HOME. The City of Dayton is a recipient of Department of Transportation funds and complies with the DBE program. Authorization for the program comes from 49 Code of Federal Regulations Part 26 (49 CFR 26). State Funds: When determining the level of participation the, only the total work performed by the certified subcontractor either singularly or severally, will be considered. This form must be utilized to indicate your subcontractors and must be fully completed and returned with your bid proposal, i.e., you must list the name(s), address, etc. of the subcontractor, type of work to be performed, dollar amount of the subcontract and percentage of the base bid. Use as many copies of this form as necessary to list all subcontractors. Should you have questions regarding this form, please contact the Human Relations Council (HRC) Office. (937) 333-1403.

Please Check One					Type of Service or Supply to be Provided	Type of Construction Work to be Performed
Firm Name, Tax I.D. Number and Mailing Address	Prime Contract Bid	Joint Venture Bid	Supply or Service Subcontract	Construction Subcontract		
Certified Business Firm Name: <u>WC Jones</u> Tax I.D. Number: <u>31-0955590</u> Street Address: <u>905 South Broadway</u> City/State/ Zip Code: <u>Dayton OH 45417</u> Phone (area code/#): <u>937-228-1253</u> E-mail: <u>WC Jones asphalt @ SBC Global.net</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<u>Asphalt Paving</u> <u>\$ 105,000.00</u>	<u>Asphalt Paving</u> <u>\$ 105,000.00</u>
Total \$ Amount of PRIME CONTRACTOR'S Base Bid: <u>\$ 681,968.00</u>					Total \$ to subcontract: <u>\$ 105,000.00</u>	Total % subcontract: <u>15.4%</u>
<b>PRIME CONTRACTOR'S REPRESENTATIVE</b>					<b>Subcontractor Information</b>	
Print Name:	<u>Peter W Flora</u>				Street Address:	<u>1780 Eden Road</u>
Sign Name:	<u>Peter W Flora Div. Mgr</u>				City/State/Zip:	<u>Springfield OH 45502</u>

N/A

**WAIVER REQUEST DOCUMENTED ACTIVITY FORM**

Date \_\_\_\_\_

Project: \_\_\_\_\_ Participation Goal (list only one): \_\_\_\_\_

A bidder must submit a separate form for each goal for which you are requesting a waiver. A bidder requesting a total or partial waiver of the, **MBE/WBE/SBE/DLSB or HUD3** Participation Goal must maintain supporting documentation and will be required to provide such documentation within two days of its request. The bidder must provide a written explanation of the good faith effort for all activities listed on the wavier form at the time the bid is submitted. If no explanation is provided, the wavier form will not be accepted. The City of Dayton Human Relations Council (HRC) shall review and evaluate the bidder's efforts to meet and comply with the project participation goal. A bidder will be granted a waiver for the **MBE/WBE/SBE/DLSB or HUD3** goal based on your good faith efforts; and only where the HRC determines that the bidder has completed all items in the following list of activities. In determining whether a bidder has made good faith efforts, the Executive Director of the Council, or his/her designee, may take into account the performance of other bidders in meeting the contract. For example, when the apparent successful lowest and best bidder fails to meet the contract goal, but others meet it, the Executive Director of the Council, or his/her designee, may reasonably raise the question of whether, with additional reasonable efforts, the apparent successful bidder could have met the goal. **The waiver request form must be submitted with your bid if you are requesting a waiver of any goal.**

Check if completed	Activity Description
	Solicited the interest of all certified <b>MBE/WBE/SBE/DLSB or HUD3</b> having the capability to perform the work of the contract. The bidder must solicit this interest at least ten (10) business days before bid submittal deadline in order to allow the <b>MBE/WBE/SBE/DLSB or HUD3</b> sufficient time to respond to the solicitation. Electronic communication will not be deemed as sufficient good faith effort, if it is the sole method of communication used.
	Divided contract work items into economically feasible units to facilitate <b>MBE/WBE/SBE/DLSB or HUD3</b> participation, even when the bidder might otherwise prefer to perform these work items with its own forces.
	Negotiated with <b>MBE/WBE/SBE/DLSB or HUD3</b> subcontractors, and has taken the subcontractors' price and capabilities, as well as the contract goals, into consideration. Rejected <b>MBE/WBE/SBE/DLSB or HUD3</b> as being unqualified only with reasons based on a diligent investigation of their capabilities. The bidder's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example, union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the bidder's efforts to meet the project goal.
	Provided interested <b>MBE/WBE/SBE/DLSB or HUD3</b> with plans and specifications at no cost, or directed to, the Minority Business Assistance Center (MBAC) for information about the plans, specifications, and requirements of the contract at least ten (10) business days of the bid submittal deadline in order to assist them in responding to a solicitation.
	Sought the assistance of the Minority Business Assistance Center (MBAC) or used the services of community organizations, contractors' groups, local, state or federal business assistance offices, or similar organizations to find subcontractors certified as (circle one: <b>MBE/WBE/SBE/DLSB or HUD3</b> ). Contacting HRC for the certified list will not be deemed as sufficient good faith efforts.
Bidding Company Name:	

5%

(Circle one: SBE/MBE/WBE/DL SB/DBE/HUD Section 3) PARTICIPATION FORM

Project Name:

2016 Residential Asphalt Resurfacing

This form may be used for more than one funding source. City of Dayton general fund and State of Ohio funds: The City of Dayton has adopted procurement programs for Minority-owned, Woman-owned, Small Business Enterprises, and Dayton Local Small Business in accordance with Sections 35.30 - 35.68 of the Revised Code of General Ordinances (R.C.G.O.), inclusively. Federal funds: The City of Dayton is committed to meeting HUD-established subcontracting and employment opportunities for HUD Section 3 companies certified with the Human Relations Council. This commitment applies to all projects funded through NSP/CDBG/HOME. The City of Dayton is a recipient of Department of Transportation funds and complies with the DBE program. Authorization for the program comes from 49 Code of Federal Regulations Part 26 (49 CFR 26). State Funds: When determining the level of participation the, only the total work performed by the certified subcontractor either singularly or severally, will be considered. This form must be utilized to indicate your subcontractors and must be fully completed and returned with your bid proposal, i.e., you must list the name(s), address, etc. of the subcontractor, type of work to be performed, dollar amount of the subcontract and percentage of the base bid. Use as many copies of this form as necessary to list all subcontractors. Should you have questions regarding this form, please contact the Human Relations Council (HRC) Office. (937) 333-1403.

Please Check One						
Firm Name, Tax I.D. Number and Mailing Address	Prime Contract Bid	Joint Venture Bid	Supply or Service Subcontract	Construction Subcontract	Type of Service or Supply to be Provided	Type of Construction Work to be Performed
Certified Business Firm Name: <u>First Star</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Traffic / Border Signs \$ 35000.00	Traffic / Border Signs \$ 35000.00
Tax I.D. Number: <u>42-1719025</u>						
Street Address: <u>4 Kovach Drive, suite 430 Cincinnati OH 45215</u>						
City/State/ Zip Code: <u>Cincinnati OH 45215</u>						
Phone (area code/#): <u>513-661-7827</u>	E-mail: <u>markhouseholder@firststarsafety.com</u>					
Total \$ Amount of PRIME CONTRACTOR'S Base Bid: <u>\$ 681,968.00</u> <u>John R Jurgensen Co</u>				Total \$ to subcontract: <u>\$ 35000.00</u>	Total % subcontract: <u>5.1%</u>	
PRIME CONTRACTOR'S REPRESENTATIVE						
Print Name: <u>Peter W Flora</u>				Street Address: <u>1780 Endon Road</u>		
Sign Name: <u>Peter W Flora Div Mgr</u>				City/State/Zip: <u>Springfield OH 45502</u>		

**WAIVER REQUEST DOCUMENTED ACTIVITY FORM**

Date \_\_\_\_\_

Project: \_\_\_\_\_

Participation Goal (list only one): \_\_\_\_\_

A bidder must submit a separate form for each goal for which you are requesting a waiver. A bidder requesting a total or partial waiver of the, **MBE/WBE/SBE/DLSB or HUD3** Participation Goal must maintain supporting documentation and will be required to provide such documentation within two days of its request. The bidder must provide a written explanation of the good faith effort for all activities listed on the waiver form at the time the bid is submitted. If no explanation is provided, the waiver form will not be accepted. The City of Dayton Human Relations Council (HRC) shall review and evaluate the bidder's efforts to meet and comply with the project participation goal. A bidder will be granted a waiver for the **MBE/WBE/SBE/DLSB or HUD3** goal based on your good faith efforts; and only where the HRC determines that the bidder has completed all items in the following list of activities. In determining whether a bidder has made good faith efforts, the Executive Director of the Council, or his/her designee, may take into account the performance of other bidders in meeting the contract. For example, when the apparent successful lowest and best bidder fails to meet the contract goal, but others meet it, the Executive Director of the Council, or his/her designee, may reasonably raise the question of whether, with additional reasonable efforts, the apparent successful bidder could have met the goal. **The waiver request form must be submitted with your bid if you are requesting a waiver of any goal.**

Check if completed	Activity Description
	Solicited the interest of all certified <b>MBE/WBE/SBE/DLSB or HUD3</b> having the capability to perform the work of the contract. The bidder must solicit this interest at least ten (10) business days before bid submittal deadline in order to allow the <b>MBE/WBE/SBE/DLSB or HUD3</b> sufficient time to respond to the solicitation. Electronic communication will not be deemed as sufficient good faith effort, if it is the sole method of communication used.
	Divided contract work items into economically feasible units to facilitate <b>MBE/WBE/SBE/DLSB or HUD3</b> participation, even when the bidder might otherwise prefer to perform these work items with its own forces.
	Negotiated with <b>MBE/WBE/SBE/DLSB or HUD3</b> subcontractors, and has taken the subcontractors' price and capabilities, as well as the contract goals, into consideration. Rejected <b>MBE/WBE/SBE/DLSB or HUD3</b> as being unqualified only with reasons based on a diligent investigation of their capabilities. The bidder's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example, union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the bidder's efforts to meet the project goal.
	Provided interested <b>MBE/WBE/SBE/DLSB or HUD3</b> with plans and specifications at no cost, or directed to, the Minority Business Assistance Center (MBAC) for information about the plans, specifications, and requirements of the contract at least ten (10) business days of the bid submittal deadline in order to assist them in responding to a solicitation.
	Sought the assistance of the Minority Business Assistance Center (MBAC) or used the services of community organizations, contractors' groups, local, state or federal business assistance offices, or similar organizations to find subcontractors certified as (circle one: <b>MBE/WBE/SBE/DLSB or HUD3</b> ). Contacting HRC for the certified list will not be deemed as sufficient good faith efforts.
<b>Bidding Company Name:</b>	

**2016 Residential Asphalt Resurfacing List**

<b>NEIGHBORHOOD</b>	<b>STREET</b>	<b>FROM</b>	<b>TO</b>	<b>SQ. YDS.</b>	<b>GRINDING INSTRUCTIONS</b>	<b>Avg PCI</b>
Walnut Hills	Highland Avenue	Wayne Avenue	Wyoming Street	7,444		24.21
Hearthstone	Emmons Avenue	Linden Avenue	Corinth Boulevard	5,094		20.54
Hearthstone	Hearthstone Drive	Mesmer Avenue	Arcadia Boulevard	4,275		23.33
Hearthstone	Nelson Avenue	Mesmer Avenue	Wellington Drive	2,631		31.05
Hearthstone	Wellington	S. Smitville Road	Hearthstone Drive	4,210		24.00
Hearthstone	Emmons Avenue	Corinth Boulevard	Farnham Avenue	3,000		25.80
Belmont	Springmont Avenue	Watervliet Avenue	Kennedy Avenue	7,238		15.52
Belmont	Laird Avenue	Springmont Avenue	Kennedy Avenue	2,755		44.78
Belmont	Kenmore Avenue	Donald Avenue	Patterson Road	3,010		24.20
Northridge Estates	Brantford Road	Frederick Pike	N. Corp	1,280		30.97
Northridge Estates	Fair Valley Road	Bartley Road	South Terminus	2,131		23.67
Deweese	Hilmont Avenue	E. Siebenthaler Avenue	Pilgrim Road	5,355		23.84
Deweese	Pilgrim Road	Ridge Avenue	Hilmont Avenue	1,915		22.16
Deweese	Lindale Avenue	Embury Park Drive	E. Siebenthaler Avenue	8,895		17.00
Residence Park	Tyson Avenue	Oakridge Avenue	Sylvan Avenue	2,725		16.67
Residence Park	Sylvan Avenue	Tyson Avenue	Whitmore Avenue	1,560		17.00
Residence Park	Seely	Tyson Avenue	Hollencamp	1,600		21.00
Residence Park	Hollencamp	Torrey Court	South Corp.	2,165		18.00
Residence Park	Torrey Court	Hollencamp	Dead End	370		22.00

CITY OF DAYTON  
CITY MANAGER'S REPORT

3.

TO: City Manager

Date May 4, 2016

FROM: Public Works/Civil Engineering  
*Department/Division*

Code 41306-6450-1424-54 \$375,000.00  
49601-6450-1424-54 \$423,069.00  
53003-3420-1424-54-WF1004 \$7,200.00  
55004-3420-1424-54-SF1001 \$16,200.00  
58002-3420-1424-54-ST1001 \$16,200.00

Fund Title Permissive Tax Resurfacing  
2016 Infrastructure Improvements  
Water Engineering

(CHECK ONE)

Amount \$ \$837,669.00

- Purchase Order
- Price Agreement
- Award of Contract
- Other \_\_\_\_\_
- Lease Agreement
- Estimate of Cost
- Payment of Voucher

Supplier/Vendor/Company/Individual:

NAME John R. Jurgensen Co.

ADDRESS 1780 Enon Road

Springfield, OH 45502

Justification and description of purchase, contract or payment:

**2016 THOROUGHFARE ASPHALT RESURFACING**  
**(PERMISSIVE TAX FUNDS)**

**(15% MBE PARTICIPATION GOAL/15 % MBE ACHIEVED) (5% WBE PARTICIPATION GOAL/5.01% ACHIEVED)**

This project consists of the asphalt resurfacing of various streets throughout the city of Dayton. Work includes the grinding of existing asphalt, application of tack coat, asphalt, and performing other work incidental thereto.

Two bids were received for this project. It is recommended that the contract be awarded to the lowest bidder, John R. Jurgensen Co., in the amount of \$837,669.00. This amount includes the base bid in the amount of \$699,856.00, Alternate No. 1 Contingency Allowance in the amount of \$100,000.00, Alternate No. 2 Partial Depth Pavement in the amount of \$37,813.00. The estimated cost for the project is \$890,000.00. The time bid for completion is 60 calendar days.

This project is being funded using Permissive Tax Funds, 2016 Infrastructure Improvements Funds, and Water Engineering Funds.

A Certificate of Funds, Tabulation of Bids, Human Relations Council's verification letter, the Bid Form from the firm recommended for award, and street list are attached.

Approved Affirmative Action Program on File  Yes  No  NA  
Approved by City Commission

\_\_\_\_\_  
Clerk

\_\_\_\_\_  
Date

\_\_\_\_\_  
Division

[Signature]  
Department

[Signature]  
City Manager

# CERTIFICATE OF FUNDS

CT161428

**SECTION I - to be completed by User Department**

NO DRAFT DOCUMENTS PERMITTED

X  **NEW CONTRACT**

**RENEWAL CONTRACT**

**CHANGE ORDER**

Contract Start Date	May 4, 2016
Expiration Date	April 7, 2018
Original Commission Approval	\$ 837,669.00
Initial Encumbrance	\$ 837,669.00
Remaining Commission Approval	\$ -
Original CT/CF	\$ -
Increase Encumbrance	\$ -
Decrease Encumbrance	\$ -
Remaining Commission Approval	\$ -

**Required Documentation**

<u> X </u>	Initial City Manager's Report
<u> X </u>	Initial Certificate of Funds
<u> X </u>	Initial Agreement/Contract
<u> </u>	Copy of City Manager's Report
<u> </u>	Copy of Original Certificate of Funds

<p><b>Amount: \$375,000.00</b></p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%;">Fund Code</td> <td style="width: 15%;">41306</td> <td style="width: 15%;">6450</td> <td style="width: 15%;">- 1424</td> <td style="width: 15%;">- 54</td> <td style="width: 15%;">- </td> <td style="width: 15%;">- </td> </tr> <tr> <td></td> <td style="text-align: center;">Fund</td> <td style="text-align: center;">Org</td> <td style="text-align: center;">Acct</td> <td style="text-align: center;">Prog</td> <td style="text-align: center;">Act</td> <td style="text-align: center;">Loc</td> </tr> </table>	Fund Code	41306	6450	- 1424	- 54	-	-		Fund	Org	Acct	Prog	Act	Loc	<p><b>Amount: \$423,069.00</b></p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%;">Fund Code</td> <td style="width: 15%;">49601</td> <td style="width: 15%;">6450</td> <td style="width: 15%;">1424</td> <td style="width: 15%;">54</td> <td style="width: 15%;">- </td> <td style="width: 15%;">- </td> </tr> <tr> <td></td> <td style="text-align: center;">Fund</td> <td style="text-align: center;">Org</td> <td style="text-align: center;">Acct</td> <td style="text-align: center;">Prog</td> <td style="text-align: center;">Act</td> <td style="text-align: center;">Loc</td> </tr> </table>	Fund Code	49601	6450	1424	54	-	-		Fund	Org	Acct	Prog	Act	Loc
Fund Code	41306	6450	- 1424	- 54	-	-																							
	Fund	Org	Acct	Prog	Act	Loc																							
Fund Code	49601	6450	1424	54	-	-																							
	Fund	Org	Acct	Prog	Act	Loc																							
<p><b>Amount: \$7,200.00</b></p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%;">Fund Code</td> <td style="width: 15%;">53003</td> <td style="width: 15%;">3420</td> <td style="width: 15%;">1424</td> <td style="width: 15%;">54</td> <td style="width: 15%;">WF1004</td> <td style="width: 15%;">- </td> </tr> <tr> <td></td> <td style="text-align: center;">Fund</td> <td style="text-align: center;">Org</td> <td style="text-align: center;">Acct</td> <td style="text-align: center;">Prog</td> <td style="text-align: center;">Act</td> <td style="text-align: center;">Loc</td> </tr> </table>	Fund Code	53003	3420	1424	54	WF1004	-		Fund	Org	Acct	Prog	Act	Loc	<p><b>\$16,200.00</b></p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%;">Fund Code</td> <td style="width: 15%;">55004</td> <td style="width: 15%;">3420</td> <td style="width: 15%;">1424</td> <td style="width: 15%;">54</td> <td style="width: 15%;">SF1001</td> <td style="width: 15%;">- </td> </tr> <tr> <td></td> <td style="text-align: center;">Fund</td> <td style="text-align: center;">Org</td> <td style="text-align: center;">Acct</td> <td style="text-align: center;">Prog</td> <td style="text-align: center;">Act</td> <td style="text-align: center;">Loc</td> </tr> </table>	Fund Code	55004	3420	1424	54	SF1001	-		Fund	Org	Acct	Prog	Act	Loc
Fund Code	53003	3420	1424	54	WF1004	-																							
	Fund	Org	Acct	Prog	Act	Loc																							
Fund Code	55004	3420	1424	54	SF1001	-																							
	Fund	Org	Acct	Prog	Act	Loc																							

Attach additional pages for more FOAPALS

Vendor Name:  John R. Jurgensen Co. 937-882-6233

Vendor Address:  1780 Enon Road Springfield OH 45502   
Street City State Zipcode + 4

Federal ID:  31-0578656

Commodity Code:  74521

Purpose:  2016 Thoroughfare Asphalt Resurfacing (Permissive Tax Funds)   
 (15% MBE & 5% WBE Participation)

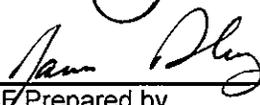
Contact Person:  Stephen Finke, Deputy Director   Public Works/Civil Eng.   333-3839   
Department/Division Phone Number

Originating Department Director's Signature:     4/22/16   
Date

**SECTION II - to be completed by the Finance Department**

I hereby certify that the amount of money required to meet the payment(s) called for in the aforesaid request have been lawfully appropriated for such purpose and is in the Treasury, or in the process of collection, to the credit of the fund from which it is to be drawn free and clear from any previous encumbrance.

Finance Director Signature:       
Date

CF Prepared by:     4/20/2016   
Date

CT161428  
**COMMISSION**  
 MAY 04 2016  
**CALENDAR** October 18, 2011

Finance Department  
 SA 425116  
 KB HA 412011







## MEMORANDUM

April 18, 2016

TO: Frederick Stovall, Director  
Department of Public Works

FROM: RoShawn Winburn, Business and Technical Assistance Administrator *te*  
Human Relations Council (HRC)

SUBJECT: **2016 Thoroughfare Asphalt Resurfacing**

The apparent low bidder, John R. Jurgensen, submitted a bid utilizing two certified contractors to meet the participation goals. The HRC contract compliance analysis of the bids submitted verified the company is an approved bidder in the City of Dayton Affirmative Action Assurance program and that the authorized representative signed the Contractor's Certification to indicate fair hiring practices. The recommended company to receive the aforementioned construction award is as follows:

RECOMMENDED RANK ORDER	PERCENTAGE OF PARTICIPATION
1. John R. Jurgensen	
A. MINORITY BUSINESS ENTERPRISE WC Jones Asphalt Paving Co., Inc	15.00%
B. WOMEN BUSINESS ENTERPRISE First Star Safety	5.01%
C. SMALL BUSINESS ENTERPRISE	
D. DAYTON LOCAL SMALL BUSINESS	
E. DISADVANTAGED BUSINESS ENTERPRISE	
F. HUD SECTION 3 BUSINESS ENTERPRISE	
TOTAL PARTICIPATION	<hr/> 15.00% MBE 5.01% WBE

The attached participation verification letters should be included with the contract agreement. Contract Compliance will include meeting verified participation and minimal worker utilization goals as stated in the Affirmative Action Program Equal Employment Opportunity form certified in the bid submission. If you have any questions or need additional information please contact RoShawn Winburn at 333-1403.



**John R. Jurgensen**  
COMMERCIAL & MUNICIPAL



City of Dayton  
Human Relations Council  
371 West Second Street, Suite 100  
Dayton Ohio 45402-1417

April 15, 2016

REF: City of Dayton's 2016 Thoroughfare Asphalt Resurfacing Rebid (15% MBE Participation, & 5% WBE)

Project Name: City of Dayton's 2016 Thoroughfare Asphalt Resurfacing

**This letter covers the WBE participation:**

Name of Subcontractor: First Star Safety  
4 Kovach Drive  
Cincinnati OH 45215

Phone: 513-661-7827

Description:	Qty	Units:	Total Unit Cost:	Extended Total:
Traffic Border Signs	1	LS	\$37,500.00	\$37,500.00
			First Star Total:	\$37,500.00
			Total for WBE:	\$37,500.00

Any further questions, please feel free to contact me

Sincerely

  
Pete Flora, Div. Mgr.  
John R. Jurgensen Co.

# W. C. Jones Asphalt Paving Co., Inc.

905 South Broadway St.  
Dayton, Ohio 45417

Email: leo.lucas1@wcjonesasphalt.com

Office (937) 228 - 1253  
Fax (937) 228 - 9300

April 15, 2016

Ms. Tosha Madison  
City of Dayton  
Human Relation Council  
317 West Second Street, Suite 100  
Dayton, Ohio 45402

Re: CITY OF DAYTON'S 2016 THOROUGHFARE ASPHALT RESURFACING (15% MBE & 5% WBE PARTICIPATION)

GENERAL CONTRACTOR: JOHN R. JURGENSEN  
1780 ENON ROAD  
SPRINGFIELD, OHIO 45502  
PH (937) 882-6233

I am supplying the following information in response to your request made on April 15, 2016.

<u>Description</u>	<u>Qty</u>	<u>Units</u>	<u>Labor</u>	<u>Material</u>	<u>Total Unit Cost</u>	<u>Total</u>
Asphalt Paving – Ground Tire Rubber	1,210	Tons	26.00	65.00	91.00	\$110,110.00
Tack – Type 407	1,200	Gals	0.50	4.00	4.50	\$ 5,400.00
<b>TOTAL MBE PARTICIPATION</b>						<b>\$115,510.00</b>

Should you have any questions or require additional information, please feel free to contact our office at the number listed above or via email.

Regards,

*Mr. Leo C. Lucas I, President*

Leo C. Lucas I,  
President



4 Kovach Drive, Suite 430, Cincinnati, OH 45215 • 513-661-STAR • f: 513-661-7829 • info@firststarsafety.com

April 13, 2016

City of Dayton, Ohio  
Human Relations Council  
371 West Second Street, Suite 100  
Dayton, Ohio 45402-1417

---

Please let us know if you have any questions about the information provided below, or if you need anything further. Thank you.

1. **Name of Project:** City of Dayton's 2016 Thoroughfare Asphalt Resurfacing
2. **Name of Prime Contractor:**  
John R. Jurgensen Company  
11641 Mosteller Road
3. **City and State of Prime Contractor:** Cincinnati, Ohio 45241
4. **Project Work Division Areas:**  
MOT: Traffic Border Signs
5. **Segment of Work Performed:**  
Maintaining Traffic (Border Signs)  
Unit Cost: \$37,500.00 Total: \$37,500.00
6. **Cost Breakdown:** N/A
7. **Mark Up or Profit:** N/A
8. **Trucking Company:** N/A

*"At First Star Safety, LLC, your safety is our first priority!"*

**2016 THOROUGHFARE ASPHALT RESURFACING**

<b>STREET</b>	<b>FROM</b>	<b>TO</b>	<b>SQ. YDS.</b>	<b>GRINDING INSTRUCTIONS</b>	<b>Avg PCI</b>
W. Hillcrest Avenue	Philadelphia Drive	Paving Joint East of Malvern Avenue	7,470		19.67
Riverside Drive	W. Fairview Avenue	Concrete Joint North of Ridge	11,970		48.89
N Main Street	Siebenthaler Avenue	N. Corp Line	3,800		29.57
Nicholas Road	Dryden Road	Danner Rd.	15,700		73.29
Gettysburg Avenue	Hoover Avenue	Midway	Slot Paving		36.00
Frederick Pike	N. Corp Line	Rivers Edge Blvd	5,108		33.09
E. Fourth Street	Sperling Avenue	Wright Avenue	4,110		43.78
N. Smithville Road	Springfield Street	Radio Road	7,900		33.09
E. Third Street	Wright Avenue	N. Smithville Road	7,160		22.16
E. Third Street	Wright Avenue	Westview Avenue	2,921		

**NOTE TO CONTRACTORS:**

Since there will be copies made of the bid form of this improvement, please use black ink or a typewriter to fill in the bid prices and extensions.

**CITY OF DAYTON, OHIO  
DEPARTMENT OF PUBLIC WORKS**

Bid Form

2016 Thoroughfare  
Asphalt Resurfacing  
15% MBE / 5% WBE  
\_\_\_\_\_  
\_\_\_\_\_

Bidder John R. Jurgensen Co  
1780 Enon Road  
Springfield OH 45502  
\_\_\_\_\_

**BID FORM**

To: Director, Department of Public Works  
The City of Dayton

The undersigned, having full knowledge of the site and the provisions of the plans and specifications for the following improvement, and the conditions of this bid, hereby agrees to furnish all services, labor, materials and equipment, and to construct in every respect complete:

**2016 THOROUGHFARE RESURFACING**  
**(PERMISSIVE TAX FUNDS)**  
**(15% MBE AND 5% WBE PARTICIPATION)**

in accordance with said plans and specifications on file in the office of the City Engineer at the unit prices hereinafter set forth.

Bid Form (Continued)

2016 THOROUGHFARE RESURFACING  
 (15% MBE 5% WBE PARTICIPATION)  
 (PERMISSIVE TAX FUNDS)

ITEM NO.	DESCRIPTION	EST. QUANT.	UNIT	UNIT PRICE	TOTAL \$
202	Grinding Existing Pavement, (2")	51,000	S.Y.	<u>1.35</u>	<u>68850.00</u>
ODOT 442	Asphalt Concrete Surface Course PG76-22M, 12.5MM, Type A (448) (2") w/ Ground Tire Rubber Modified Asphalt Binder	5,670	Tons	<u>83.00</u>	<u>470610.00</u>
407	Tack Coat (0.1 GAL/SY)	5,100	Gal	<u>1.00</u>	<u>5100.00</u>
614	Maintenance of Traffic	1	Lump	<u>41575.60</u>	<u>41575.60</u>
632	Loop Detector	13	Each	<u>939.00</u>	<u>12207.00</u>
632	Loop Detector Tie-Ins	13	Each	<u>109.00</u>	<u>1417.00</u>
644	Lane Line (4")	4,968	L.F.	<u>.16</u>	<u>794.88</u>
644	Center Line (Double Yellow) (4"-4"-4")	6,109	L.F.	<u>.80</u>	<u>4887.20</u>
644	Center Line (Dashed/Dotted) (4"-4"-4")	640	L.F.	<u>.51</u>	<u>326.40</u>
644	Center Line (Dashed) 4"	1,230	L.F.	<u>.16</u>	<u>196.80</u>
644	Stop Line (24")	344	L.F.	<u>5.00</u>	<u>1720.00</u>
644	Crosswalk Line (6")	1,028	L.F.	<u>2.26</u>	<u>2323.28</u>
645	Crosswalk Line (6")	1,725	L.F.	<u>7.10</u>	<u>12247.50</u>
646	Crosswalk Line (6")	1,726	L.F.	<u>7.27</u>	<u>12548.02</u>

ITEM NO.	DESCRIPTION	EST. QUANT.	UNIT	UNIT PRICE	TOTAL \$
647	Crosswalk Line (6")	1,727	L.F.	5.44	9394.88
644	Channelizing Line (8")	1,271	L.F.	1.20	1525.20
644	Edge Line (White)	2,808	L.F.	.40	1123.20
644	Bike Crossing Lines (12")	480	L.F.	3.00	1440.00
647	Stop Line (24")	41	L.F.	10.58	433.78
647	Crosswalk Line (6")	79	L.F.	5.44	429.76
836	Manhole Adjusted	144	Each	225.00	32400.00
846	Water Valve Box Adjusted	90	Each	80.00	7200.00
SPL	Longitudnal Joint Stabilizer	31,730	S.F.	.35	11105.50

TOTAL BASE BID \$ 699856.00

**2016 THOROUGHFARE RESURFACING**  
**(15% MBE 5% WBE PARTICIPATION)**  
**(PERMISSIVE TAX FUNDS)**

In determining the lowest and best bid the City Commission may give consideration to the following alternate bids:

**ALTERNATE NO. 1**  
**CONTINGENCY**

This Alternate is for a "CONTINGENCY ALLOWANCE" to be used in the event of unforeseen work which must be undertaken to complete this project. The work could be as additional quantities to the bid items or as non-bid items. The amount of this "ALLOWANCE" may vary as determined by the Engineer, but shall not exceed the maximum of **\$100,000.00.**

<b><u>ITEM</u></b>		<b><u>EST.</u></b>	<b><u>UNIT</u></b>	<b><u>UNIT</u></b>	<b><u>TOTAL \$</u></b>
<b><u>NO.</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>QUAN</u></b>		<b><u>PRICE</u></b>	
SPL	Contingency Allowance	1	LUMP	\$ 100,000.00	\$ 100,000.00
<b>TOTAL ALTERNATE NO. 1</b>				\$	<b><u>100,000.00</u></b>

## Bid Form (Continued)

**2016 THOROUGHFARE RESURFACING**  
**(15% MBE 5% WBE PARTICIPATION)**  
**(PERMISSIVE TAX FUNDS)**

ALTERNATE NO. 2PARTIAL DEPTH PAVEMENT REPAIR

This alternate is for the "slot" paving of the longitudinal joints on Gettysburg Avenue from Hoover Avenue to Midway Avenue. This process will involve milling a 2 foot wide by 3 inches deep section along the longitudinal joints of Gettysburg Avenue from the extents described. Items included in this work shall include, but will not be limited to the removal of the longitudinal joint to the dimensions described, tack coat, Asphalt Cement on the vertical faces of the removal, paving the area removed, and surface sealing on the joints created by the slot paving. The contractor will be responsible for developing a Maintenance of Traffic Plan that maintains one lane of traffic in each direction along this stretch and is subject to approval by Traffic Engineering this work shall be included in the unit price bid for Item 614 "Maintenance of Traffic."

<u>ITEM NO.</u>	<u>DESCRIPTION</u>	<u>EST. QUAN</u>	<u>UNIT</u>	<u>UNIT PRICE</u>	<u>TOTAL \$</u>
ODOT 251	Partial Depth Pavement Repair	6090	L.F.	\$ 5,50	\$ 33495.00
614	Maintenance of Traffic	1	Lump	\$ 2500.00	\$ 2500.00
644	Center Line (Dashed) 4"	5490	L.F.	\$ .20	\$ 1098.00
644	Channelizing Line (8")	600	L.F.	\$ 1.20	\$ 720.00
<b>TOTAL ALTERNATE NO. 2</b>				<b>\$ 37813.00</b>	

**Bid Form (Continued)**

**2016 THOROUGHFARE RESURFACING  
(15% MBE 5% WBE PARTICIPATION)  
(PERMISSIVE TAX FUNDS)**

The consideration to be paid for the performance of the Contract of the above described project is provided as follows: This information provides for the issuance of the tax-exempt form for the purchase of materials for this project.

<u>DESCRIPTION</u>	<u>CONSIDERATION FOR MATERIALS</u>	<u>CONSIDERATION FOR OBLIGATIONS</u>	<u>TOTAL \$</u>
TOTAL BASE BID	\$ <u>399,856.<sup>00</sup></u>	\$ <u>300,000.<sup>00</sup></u>	\$ <u>699,856.<sup>00</sup></u>
TOTAL ALT. NO. 1 (Contingency)	\$ <u>-0-</u>	\$ <u>100,000.00</u>	\$ <u>100,000.00</u>
TOTAL ALT. NO. 2 (Partial Depth Pavement Repair)	\$ <u>17,813.<sup>00</sup></u>	\$ <u>20,000.<sup>00</sup></u>	\$ <u>37,813.<sup>00</sup></u>

The time of completion fixed by the City is 60 Calendar Days

Following are the names of all persons, firms, and corporations interested in the above bid as principals. If none, state that "No person or party other than the bidder is interested in this Bid."

<u>NAME</u>	<u>ADDRESS</u>
<u>"No person or party other than the bidder is interested in this bid"</u>	

## DISCLOSURE OF LITIGATION

Disclosure of Litigation: Have you or any person, group, partnership, company, or corporation affiliated with you been engaged in the past three (3) years in litigation, mediation or any form of contractual dispute resolution with any state government or any political subdivision thereof including, without limitation, the State of Ohio, the City of Dayton, Ohio, or Montgomery County, Ohio? For the purpose of your response, "affiliated" means directly or indirectly controlling, controlled by, or under common control, with "control" meaning legally or operationally in a position to exercise restraint or direction over the other.

RESPONSE: YES \_\_\_\_\_ NO X

If your response is "YES" please separately identify each lawsuit, mediation or dispute resolution process in which you or your affiliate have been engaged during the past three (3) years. Identify the nature of the dispute, the parties involved, and the current status of the dispute. Attach or include any information you believe pertinent to a full understanding of the disputed matters.

Bidder is

An Individual  
Firm Name

Business Address

Telephone

Partnership  
Firm Name

Members of Firm and  
Their Business Address

Corporation  
Name

State of Incorporation

Name and Title of  
Officers with Authority  
to Sign Contract

Home Office Address

Local Address

Telephone

John R. Jurgensen Co

Ohio

James P Jurgensen Pres, Robert M Steier V.P.  
Peter W Flora, Div. Mgr.

11641 Mosteller Road Cincinnati OH 45241

1780 Enon Road Springfield OH 45502

Telephone 937 882 6233 Fax 937 882-6957

E-mail Pete.Flora@jrjnet.com

Federal I.D.# 31-0578656

Dated this 7<sup>th</sup> day of April, 2016

Bidder: John R Jurgensen Co  
(Person, Firm, or Corporation)

By: Peter W Flora

Title: Division Manager

If a certified or cashier's check is submitted with Bid Form, please furnish the following information:

\_\_\_\_\_ Certified Check

\_\_\_\_\_ Cashier's Check

Amount \_\_\_\_\_ Dollars

on \_\_\_\_\_ Bank

of \_\_\_\_\_ is Attached

RE/A

\_\_\_\_\_  
Bidder

Cash in the amount of \_\_\_\_\_ Dollars is attached.

\_\_\_\_\_  
Bidder

**BID BOND**

AMOUNT \$ Ten Percent (10%) of the bid amount

We, the undersigned, are held and firmly bound unto the City of Dayton, Ohio, in the sum of Ten Percent (10%) of the bid amount Dollars for the payment of which, well and truly to be made, we hereby, jointly and severally, bind ourselves, our heirs, executors and administrators, firmly by these presents.

The condition of this obligation is such that, if the Bid attached hereto is accepted and the Contract awarded to the bidder, John R. Jurgensen Company named therein, and the said bidder shall within ten (10) days after being advised that said contract has been awarded to the bidder, enter into a Contract in the form hereto attached and give bond in a form to be furnished by the Director, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

Signed and sealed at Dayton, Ohio this 7th day of April, 20 16.

John R. Jurgensen Company

By: *Paula Hlee* Division Manager  
Bidder

Federal Insurance Company

By: *Christina A. Arvizu*  
Surety

Christina A. Arvizu, Attorney-in-Fact

Arthur J. Gallagher Risk Management Services, Inc.

Name of Insurance Agency

1 West 4th Street, Suite 1300

Cincinnati, OH 45202

Address of Insurance Agency

Telephone 513-977-3100 FAX 513-977-3618



Chubb  
Surety

POWER  
OF  
ATTORNEY

Federal Insurance Company  
Vigilant Insurance Company  
Pacific Indemnity Company

Attn: Surety Department  
15 Mountain View Road  
Warren, NJ 07059

Know All by These Presents, That FEDERAL INSURANCE COMPANY, an Indiana corporation, VIGILANT INSURANCE COMPANY, a New York corporation, and PACIFIC INDEMNITY COMPANY, a Wisconsin corporation, do each hereby constitute and appoint Christina A. Arvizu, Thomas R. Dietz, Robert E. Gigax Jr., Patricia L. Hehman, Shelly M. Martin and Phyllis T. Neal of Cincinnati, Ohio and William R. Carpenter of Brentwood, Tennessee

each as their true and lawful Attorney-in-Fact to execute under such designation in their names and to affix their corporate seals to and deliver for and on their behalf as surety thereon or otherwise, bonds and undertakings and other writings obligatory in the nature thereof (other than bail bonds) given or executed in the course of business, and any instruments amending or altering the same, and consents to the modification or alteration of any instrument referred to in said bonds or obligations. In Witness Whereof, said FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY have each executed and attested these presents and affixed their corporate seals on this 17<sup>th</sup> day of November, 2014.

Dawn M. Chloros, Assistant Secretary

David B. Norris, Jr., Vice President



STATE OF NEW JERSEY  
County of Somerset

On this 17<sup>th</sup> day of November, 2014 before me, a Notary Public of New Jersey, personally came Dawn M. Chloros, to me known to be Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY, the companies which executed the foregoing Power of Attorney, and the said Dawn M. Chloros, being by me duly sworn, did depose and say that she is Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY and knows the corporate seals thereof, that the seals affixed to the foregoing Power of Attorney are such corporate seals and were thereto affixed by authority of the By-Laws of said Companies; and that she signed said Power of Attorney as Assistant Secretary of said Companies by like authority; and that she is acquainted with David B. Norris, Jr., and knows him to be Vice President of said Companies; and that the signature of David B. Norris, Jr., subscribed to said Power of Attorney is in the genuine handwriting of David B. Norris, Jr., and was thereto subscribed by authority of said By-Laws and in deponent's presence.

Notarial Seal



KATHERINE J. ADELAAR  
NOTARY PUBLIC OF NEW JERSEY  
No. 2316885  
Commission Expires July 16, 2019

Notary Public

CERTIFICATION

Extract from the By-Laws of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY:

"All powers of attorney for and on behalf of the Company may and shall be executed in the name and on behalf of the Company, either by the Chairman or the President or a Vice President or an Assistant Vice President, jointly with the Secretary or an Assistant Secretary, under their respective designations. The signature of such officers may be engraved, printed or lithographed. The signature of each of the following officers: Chairman, President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary and the seal of the Company may be affixed by facsimile to any power of attorney or to any certificate relating thereto appointing Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such power of attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached."

I, Dawn M. Chloros, Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY (the "Companies") do hereby certify that

- (i) the foregoing extract of the By-Laws of the Companies is true and correct,
- (ii) the Companies are duly licensed and authorized to transact surety business in all 50 of the United States of America and the District of Columbia and are authorized by the U.S. Treasury Department; further, Federal and Vigilant are licensed in the U.S. Virgin Islands, and Federal is licensed in American Samoa, Guam, Puerto Rico, and each of the Provinces of Canada except Prince Edward Island; and
- (iii) the foregoing Power of Attorney is true, correct and in full force and effect.

Given under my hand and seals of said Companies at Warren, NJ this April 7, 2016.



Dawn M. Chloros, Assistant Secretary

IN THE EVENT YOU WISH TO NOTIFY US OF A CLAIM, VERIFY THE AUTHENTICITY OF THIS BOND OR NOTIFY US OF ANY OTHER MATTER, PLEASE CONTACT US AT ADDRESS LISTED ABOVE, OR BY Telephone (908) 903-3493 Fax (908) 903-3656 e-mail: surety@chubb.com

# FEDERAL INSURANCE COMPANY

## STATEMENT OF ASSETS, LIABILITIES AND SURPLUS TO POLICYHOLDERS

Statutory Basis

DECEMBER 31, 2015

(in thousands of dollars)

<i>ASSETS</i>		<i>LIABILITIES AND SURPLUS TO POLICYHOLDERS</i>	
Cash and Short Term Investments.....	\$ 687,917	Outstanding Losses and Loss Expenses.....	\$ 12,174,848
United States Government, State and Municipal Bonds .....	9,544,097	Unearned Premiums.....	3,726,665
Other Bonds.....	4,491,238	Dividends Payable to Stockholder.....	1,400,000
Stocks.....	692,901	Ceded Reinsurance Premiums Payable.....	329,694
Other Invested Assets.....	2,187,839	Provision for Reinsurance .....	35,560
		Other Liabilities.....	1,295,093
<b>TOTAL INVESTMENTS .....</b>	<b>17,603,992</b>	<b>TOTAL LIABILITIES .....</b>	<b>18,961,860</b>
 Investments in Affiliates:			
Chubb Investment Holdings, Inc. ....	3,679,770	Capital Stock.....	20,980
Pacific Indemnity Company.....	2,930,246	Paid-In Surplus.....	3,106,809
Executive Risk Indemnity Inc.....	1,267,144	Unassigned Funds .....	10,150,916
Chubb Insurance Investment Holdings Ltd....	1,020,650		
CC Canada Holdings Ltd.....	590,955	<b>SURPLUS TO POLICYHOLDERS.....</b>	<b>13,278,705</b>
Great Northern Insurance Company .....	469,230		
Chubb Insurance Company of Australia Ltd.	404,845		
Vigilant Insurance Company.....	306,232		
Chubb European Investment Holdings SLP ..	294,200		
Other Affiliates .....	566,480		
Premiums Receivable .....	1,659,749		
Other Assets .....	1,447,072		
 <b>TOTAL ADMITTED ASSETS .....</b>	<b>\$ 32,240,565</b>	<b>TOTAL LIABILITIES AND SURPLUS TO POLICYHOLDERS.....</b>	<b>\$ 32,240,565</b>

Investments are valued in accordance with requirements of the National Association of Insurance Commissioners. At December 31, 2015, investments with a carrying value of \$546,611,273 were deposited with government authorities as required by law.

State, County & City of New York, — ss:

Dawn M. Chloros, Assistant Secretary

\_\_\_\_\_ of the Federal Insurance Company being duly sworn, deposes and says that the foregoing Statement of Assets, Liabilities and Surplus to Policyholders of said Federal Insurance Company on December 31, 2015 is true and correct and is a true abstract of the Annual Statement of said Company as filed with the Secretary of the Treasury of the United States for the 12 months ending December 31, 2015.

Subscribed and sworn to before me this March 11, 2016.

*Jeanette Shipsey*  
\_\_\_\_\_  
Notary Public

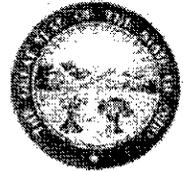
JEANETTE SHIPSEY  
Notary Public, State of New York  
No. 02SH5074142  
Qualified in Nassau County  
Commission Expires March 10, 2019

*Dawn M. Chloros*  
\_\_\_\_\_  
Assistant Secretary

Office of Risk Assessment  
50 West Town Street  
Third Floor - Suite 300  
Columbus, Ohio 43215  
(614)644-2658  
Fax(614)644-3256  
www.insurance.ohio.gov

**Ohio Department of Insurance**

John R. Kasich - Governor  
Mary Taylor - Lt. Governor/Director



**Certificate of Compliance**

Issued 04/01/2016

Effective 04/02/2016

Expires 04/01/2017

I, Mary Taylor, hereby certify that I am the Lt. Governor/Director of Insurance in the State of Ohio and have supervision of insurance business in said State and as such I hereby certify that

**FEDERAL INSURANCE COMPANY**

of Indiana is duly organized under the laws of this State and is authorized to transact the business of insurance under the following section(s) of the Ohio Revised Code:

**Section 3929.01 (A)**

Accident & Health	Ocean Marine
Aircraft	Other Liability
Allied Lines	Private Passenger Auto - Liability
Boiler & Machinery	Private Passenger Auto - No Fault
Burglary & Theft	Private Passenger Auto - Physical Damage
Commercial Auto - Liability	Surety
Commercial Auto - No Fault	Workers Compensation
Commercial Auto - Physical Damage	
Credit	
Earthquake	
Fidelity	
Fire	
Glass	
Group Accident & Health	
Inland Marine	
Multiple Peril - Commercial	
Multiple Peril - Homeowners	

FEDERAL INSURANCE COMPANY certified in its annual statement to this Department as of December 31, 2015 that it has admitted assets in the amount of \$32,240,564,736, liabilities in the amount of \$18,961,859,982, and surplus of at least \$13,278,704,754.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused my seal to be affixed at Columbus, Ohio, this day and date.

*Mary Taylor*

Mary Taylor, Lt. Governor/Director



CITY OF DAYTON, OHIO  
Department of Public Works

Responsible Contractor Bidding Requirements  
(Form 1 of 3)

In accordance with Ordinance No. 30575-06 of the City of Dayton, Ohio Revised Code of General Ordinances, I, Peter W Flora hereby certify that \_\_\_\_\_  
(print name - an Officer of the company)

John R Jurgensen Co meets the following Contractor requirements relating  
(company)

to this City of Dayton construction project (check all that apply):

- Comply with all City of Dayton income tax obligations and requirements
- Maintain worker's compensation insurance for all employees as required by the State of Ohio
- Comply with State or Federal prevailing wage rate laws, as applicable and required by the funding of this project
- Comply with the State of Ohio Bureau of Worker's Compensation Drug Free Workplace Policy
- Made a good faith effort to contract with one or more qualified minority business enterprises to perform work required by this project, in accordance with bid documents, ordinances, and applicable Federal and State law

By: Peter W Flora  
(signature)

Title: Division Manager

Date: 4/7/16

CITY OF DAYTON, OHIO  
Department of Public Works

Responsible Contractor Bidding Requirements  
(Form 2 of 3)

A. Please provide a complete listing of the fringe benefits provided to employees expected to be utilized at the project site, including, but not limited, to health insurance and retirement benefits. (Reference to benefits traditionally provided on past, similar projects can be made.)

Vision Insurance \_\_\_\_\_  
Life Insurance \_\_\_\_\_  
Dental Insurance \_\_\_\_\_  
Short Term Disability \_\_\_\_\_  
Group Medical Insurance \_\_\_\_\_  
Defined Benefit Contribution Plan \_\_\_\_\_

B. Please identify any "bona fide apprentice training program" in which this company participates in accordance with the Ohio Bureau of Apprenticeship Training and the U. S. Department of Labor.

Ohio Laborers and Training Program \_\_\_\_\_  
Ohio Operating Engineer Training & Apprenticeship Program \_\_\_\_\_

C. Please provide a list of subcontractors whose quotes or information are included or used in the bid submitted for this project.

W C Jones \_\_\_\_\_  
First Star \_\_\_\_\_  
Bansal \_\_\_\_\_  
Pavement Technologies \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**CERTIFICATION**  
**OF COMPLIANCE WITH OHIO REVISED CODE SECTION 3517.13**  
**FOR CONTRACTS IN EXCESS OF FIVE HUNDRED DOLLARS (\$500.00)**

STATE OF OHIO,  
COUNTY OF Clark, ss:

Peter W Flora being duly sworn, deposes and states as follows:

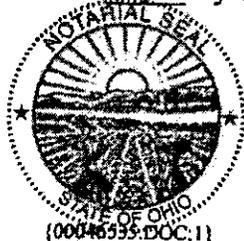
1. I am duly authorized to make the statements contained herein on behalf of  
John R Jurgensen Co ("the Contracting Party").
2. The Contracting Party is a/an (select one):
  - Individual, partnership, or other unincorporated business association (including without limitation, a professional association organized under Ohio Revised Code Chapter 1785), estate, or trust.
  - Corporation organized and existing under the laws of the State of Ohio.
  - Labor organization.
3. I hereby affirm that the Contracting Party and each of the individuals specified in R.C. 3517.93(I)(3) (with respect to non-corporate entities and labor organizations) or R.C. 3517.93(J)(3) (with respect to corporations) are in full compliance with the political contributions limitations set forth in R.C. 3517.93(I) and (J), as applicable. I understand that a false representation on this certification constitutes a felony of the fifth degree pursuant to R.C. 3517.93(AA) and 3517.992(R)(3). Any contract that contains a falsified certification shall be rescinded.

By: Peter W Flora

Title: Division Manager

STATE OF OHIO,  
COUNTY OF CLARK, ss:

Sworn to before me and subscribe in my presence by Peter W Flora  
this 7 day of April, 2016



BRENDA E GRIMES-HANNAH  
Notary Public  
In and for the State of Ohio  
My Commission Expires  
April 06, 2018

Brenda E Grimes-Hannah  
Notary Public

**CITY OF DAYTON  
CONTRACTOR NON-COLLUSION AFFIDAVIT  
TO BE NOTARIZED AND SUBMITTED WITH BID FORM**

STATE OF Ohio )  
COUNTY OF Clark ) SS:

Peter W Flora, being first duly sworn deposes and states that:

(1) He/she is Division Manager of  
(owner, partner, officer, representative, or agent)  
John R Jurgensen Co that  
(business or organization name)

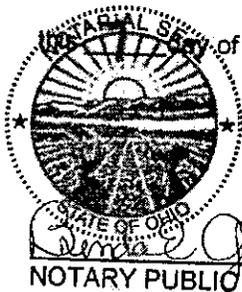
(2) He/She is fully informed respecting the preparation and contents of the attached Bid and all pertinent circumstances respecting such Bid.

(3) Such offering is genuine and is not a collusive or sham offering

(4) Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived, or agreed, directly or indirectly with any other Bidder, firm or person to submit a sham Bid in connection with the Contract for which the attached Bid has been submitted or to refrain from offering in connection with such contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Bidder, or to secure through collusion, conspiracy, connivance or unlawful agreement any advantage against the City of Dayton, its employees, or citizens.

(5) The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest including the affiant.

Sworn to before me and subscribed in my presence



of April, 2016.  
BRENDA E GRIMES-HANNAH  
Notary Public  
In and for the State of Ohio  
My Commission Expires  
April 06, 2018

Peter W Flora  
SIGNED

Division Manager  
TITLE

**FAILURE TO SIGN AND SUBMIT THIS DOCUMENT WITH YOUR BID  
WILL RESULT IN YOUR BID NOT BEING READ**

**AFFIRMATIVE ACTION PROGRAM  
EQUAL EMPLOYMENT OPPORTUNITY**

**PROJECT:** 2016 Thoroughfare Asphalt Resurfacing Various Streets  
NAME LOCATION

During the performance of this contract:

John R Jurgensen Co 1780 Enon Road Springfield OH 45502 937 882 6233 / 937 882 6957  
CONTRACTOR ADDRESS TELEPHONE / FAX

being the general contractor, assumes the responsibility and obligation to institute an Affirmative Action Program which complies with revised City Ordinances 24059 and 26090 and Executive Order 11246 on any city, federal or federally-assisted construction project, to insure Equal Employment Opportunity regardless of race, color, religion, sex, national origin, ancestry, place of birth, age, or marital status.

The successful contractor using one or more trades of construction employees must comply with Part I of these Affirmative Actions Program conditions to each such trade.

**Part I: Requirements.** To be eligible for award of a contract under this Invitation to Bid, contractors must certify as prescribed in Paragraph 1a, of the certification specified in Part II hereof that it adopts the minimum goals and timetables of minority and female worker utilization, and specific Affirmative Action steps set forth in Sections 1 and 2 of this Part I.

- 1.) **Goals & Timetables.** The goals of minority and female worker utilization required of the contractor are applicable to each trade which will be used on any project in Greene, Miami, Montgomery, and Preble Counties, OH (hereinafter the Economic Area).

The required goals and timetables are as follows:

From 1/1/2000 to Present	Goals of Minority Worker Utilization Expressed in Percentage Terms <hr/> 11.5%
From 4/1/80 to Present	Goals of Female Worker Utilization Expressed in Percentage Terms <hr/> 6.9%

The percentage goals of minority and female worker utilization are expressed in terms of working hours of training and employment as a proportion of the total working hours to be worked by the contractor's entire work force in that trade on all projects (both federal and non-federal) in the Economic Area during the performance of this contract. The working hours for minority and female work and training must be uniform throughout the length of this contract, on all projects and for each of the trades. Further, the transfer of minority and/or female or trainee from employer-to-employer or from project-to-project for the sole purpose of meeting the contractor's goals shall be a violation of this Affirmative Action Program.

In reaching the goals for minority and female utilization, every effort shall be made to find and employ qualified journey-persons. Provided, however, and pursuant to the requirements of the Department of Labor Regulations, 29 CFR 5a.3, twenty-five percent (25%) of apprentices or trainees shall be employed on all projects and shall be in their first year of training, where feasible.

In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the contractor during the training period, and the contractor must have made a commitment to employ the apprentices and/or trainees at the completion of the training subject to the availability of employment opportunities. Apprentices and trainees must be trained pursuant to programs which have been approved by The U.S. Department of Labor and/or The State of Ohio.

A contractor shall be deemed to be in compliance with the terms and requirements of this Part I by the employment and training of minorities and females in the appropriate percentage of the contractor's aggregate work force in the Economic Area for each trade for which it is committed to the goals under Part I.

However, no contractor shall be found to be in noncompliance solely on account of the contractor's failure to meet the goals and timetables, but such contractor shall be given the opportunity to demonstrate that all of the specific Affirmative Action steps specified in Part I have been instituted and has made every "good faith" effort to make these steps work towards the attainment of the goals and timetables.

2.) **Specific Affirmative Action Steps.** A contractor subject to Part I, must engage in Affirmative Action directed at increasing minority and female utilization, which is at least as extensive and as specific as the following steps:

- a) The contractor shall notify community organizations that the contractor has employment opportunities available and shall maintain records of the organizations' responses.
- b) The contractor shall maintain a file of the names and addresses of each minority and female referred and what action was taken with respect to each referred worker. If the worker was not employed, the reason therefor. If the worker was not sent to the union hiring hall for referral, the contractor's file shall document this and the reasons therefor.

- c) The contractor shall promptly notify the Dayton Human Relations Council (HRC) when the union or unions with which the contractor has a collective bargaining agreement has not referred to the contractor a minority and/or female, or when the contractor has other information that the union referral process has impeded the contractor's efforts to meet its obligations.
- d) The contractor should participate in training programs in the area; especially those approved by the U.S. Department of Labor and/or the State of Ohio.
- e) The contractor shall disseminate the EEO Policy within the organization by including it in any policy manual, by publicizing it in company newspapers, annual reports, etc.; by conducting staff, employee and union representatives' meetings to explain and discuss the policy; by posting of the policy; and by specific review of the policy with minority and female employees.
- f) The contractor shall ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites and in all facilities at which the contractor's employees are assigned to work. The contractor, where possible, will assign two or more women to all projects (both federal and non-federal) in the Economic Area during the performance of its contract or subcontract.
- g) The contractor shall make specific and constant personal (both written and oral) recruitment efforts directed at all minority and female organizations, schools, minority and female recruitment training organizations with the Dayton Economic Area.
- h) The contractor shall make specific efforts to encourage present minority and female employees to recruit other minorities and females.
- i) The contractor shall validate all tests and other selection requirements.
- j) The contractor should develop on-the-job training opportunities; participate and assist in any association or employer-group training programs relevant to the contractor's employees needs consistent with its obligations under Part I.
- k) The contractor shall evaluate all minority and female personnel for promotional opportunities and encourage employees to seek such opportunities.
- l) The contractor shall ensure that seniority practices, job classifications, etc., do not have a discriminatory effect.
- m) The contractor shall make certain that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
- n) The contractor will monitor all personnel activities to ensure that its EEO Policy is being carried out.

- o) The successful contractor shall solicit bids for work to be performed on this project under a subcontract from minority and female contractors and other business associations.
- 3.) Nothing herein is intended to relieve any contractor during the term of this project from compliance with any other local bid requirements. Further, it shall be the responsibility of each contractor to comply with all terms, conditions, and provisions of the Affirmative Action Programs.

**Part II: Contractor's Certification.** A contractor will not be eligible for award of a contract under this Invitation to Bid, unless such contractor has submitted as a part of the bid the following certification, which will be deemed a part of the resulting contract:

**CONTRACTOR'S CERTIFICATION**

\_\_\_\_\_ John R Jurgensen Co \_\_\_\_\_ (Contractor)  
 certifies that:

- 1. The following listed construction trades will be used in performance of this project.

<u>Operators</u>	
<u>Labors</u>	

a) as to those trades set forth in the preceding paragraph one hereof, it adopts the minimum minority and female utilization goals and the specific Affirmative Action steps contained in this Affirmative Action Program. Compliance is measured in each trade of the contractor's aggregate work force for all construction work (both federal and non-federal) in the four Counties (Greene, Miami, Montgomery and Preble) subject to this Affirmative Action Program; and

b) the successful contractor will obtain from each subcontractor and submit to the contracting or administering agency prior to the award of any subcontract under this contract, the subcontractor certification required by the Affirmative Action Program.

SIGN: *Paulo Aler* Division Manager  
 (Signature of Authorized Representative of Bidder)

**FAILURE TO SUBMIT AND SIGN THIS DOCUMENT WITH YOUR BID  
 WILL RESULT IN YOUR BID NOT BEING READ**





## CITY OF DAYTON

DEPARTMENT OF PUBLIC WORKS, DIVISION OF CIVIL ENGINEERING

CITY HALL - P.O. BOX 22 - DAYTON, OHIO - 45401

FAX: 937-333-4077

Date: April 1, 2016

To: Plan Holders/Plan Rooms

From: Lisa Moell

You will be receiving 5 pages including the cover page. If you experience difficulties please contact Lisa at 937.333.3840

---

**Addendum No. 1**  
**2016 Thoroughfare Asphalt Resurfacing**

Please find attached Addendum No. 1 for the above mentioned project. Please direct all technical questions to David Escobar, 937.333.3849 or email [david.escobar@daytonohio.gov](mailto:david.escobar@daytonohio.gov)

**ADDENDUM NO. 1**

**2016 Thoroughfare Asphalt Resurfacing  
(Permissive Tax Funds)  
(15% MBE & 5% WBE Participation)**

**April 1, 2016**

**TO ALL BIDDERS:**

This addendum, including all articles and corrections listed below, shall be taken into account in preparing the "Bid Forms" and shall become part of the Contract.

All bidders are requested to attach this Addendum to the Bid Form and return to the City.

**ITEM NO. 1**

Bid Form page 3d shall be added to the Bid Form. The attached Bid Form page 3d adds a second alternate for Partial Depth Pavement Repair.

**ITEM NO. 2**

Bid Form page 4 (Revised 4/1/2016) (1 page) shall replace the original Bid Form Page 4 (1 page). The attached Bid Form page 4 (Revised 4/1/2016) adds a second alternate for Partial Depth Pavement Repair to the summary of items bid.

**ITEM NO. 3**

The attached Resurfacing List (1 page) shall replace the existing Resurfacing List (1 page) in the Invitation to Bid. This item removes the section of Fairview Avenue from the Alternate List

April 1, 2016  
Steve Finke  
Deputy Director of Public Works

15%

(Circle one: SBEMBE/WBE/DLSB/DBE/HUD Section 3) PARTICIPATION FORM

Project Name:

2016 Thoroughfare Asphalt Resurfacing

This form may be used for more than one funding source. City of Dayton general fund and State of Ohio funds: The City of Dayton has adopted procurement programs for Minority-owned, Woman-owned, Small Business Enterprises, and Dayton Local Small Business in accordance with Sections 35.30 – 35.68 of the Revised Code of General Ordinances (R.C.G.O.), inclusively. Federal funds: The City of Dayton is committed to meeting HUD-established subcontracting and employment opportunities for HUD Section 3 companies certified with the Human Relations Council. This commitment applies to all projects funded through NSP/CDBG/HOME. The City of Dayton is a recipient of Department of Transportation funds and complies with the DBE program. Authorization for the program comes from 49 Code of Federal Regulations Part 26 (49 CFR 26). State Funds: When determining the level of participation the, only the total work performed by the certified subcontractor either singularly or severally, will be considered. This form must be utilized to indicate your subcontractors and must be fully completed and returned with your bid proposal, i.e., you must list the name(s), address, etc. of the subcontractor, type of work to be performed, dollar amount of the subcontract and percentage of the base bid. Use as many copies of this form as necessary to list all subcontractors. Should you have questions regarding this form, please contact the Human Relations Council (HRC) Office. (937) 333-1403.

Firm Name, Tax I.D. Number and Mailing Address	Please Check One				Type of Service or Supply to be Provided	Type of Construction Work to be Performed
	Prime Contract Bid	Joint Venture Bid	Supply or Service Subcontract	Construction Subcontract		
Certified Business Firm Name: WC Jones	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Asphalt Paving \$110,000.00	Asphalt Paving \$110,000.00
Tax I.D. Number: 31-0955590						
Street Address: 905 South Broadway						
City/State/ Zip Code: Dayton OH 45417						
Phone (area code/#): 937-228-1253	E-mail: wcjonesasphalt@sbcglobal.net					

Total \$ Amount of PRIME CONTRACTOR'S Base Bid: 699,856.00 Total \$ to subcontract: \$110,000.00 Total % subcontract: 15.7%

PRIME CONTRACTOR'S REPRESENTATIVE		SUBCONTRACTOR'S ADDRESS	
Print Name: Peter W Flora	Sign Name: <u>Peter W Flora</u> Div. Mgr.	Street Address: 1780 Enda Road	
		City/State/Zip: Springfield OH 45502	

# WAIVER REQUEST DOCUMENTED ACTIVITY FORM

Date \_\_\_\_\_

Project: \_\_\_\_\_

Participation Goal (list only one): \_\_\_\_\_

A bidder must submit a separate form for each goal for which you are requesting a waiver. A bidder requesting a total or partial waiver of the, **MBE/WBE/SBE/DLSB** or **HUD3** Participation Goal must maintain supporting documentation and will be required to provide such documentation within two days of its request. The bidder must provide a written explanation of the good faith effort for all activities listed on the waiver form at the time the bid is submitted. If no explanation is provided, the waiver form will not be accepted. The City of Dayton Human Relations Council (HRC) shall review and evaluate the bidder's efforts to meet and comply with the project participation goal. A bidder will be granted a waiver for the **MBE/WBE/SBE/DLSB** or **HUD3** goal based on your good faith efforts; and only where the HRC determines that the bidder has completed all items in the following list of activities. In determining whether a bidder has made good faith efforts, the Executive Director of the Council, or his/her designee, may take into account the performance of other bidders in meeting the contract. For example, when the apparent successful lowest and best bidder fails to meet the contract goal, but others meet it, the Executive Director of the Council, or his/her designee, may reasonably raise the question of whether, with additional reasonable efforts, the apparent successful bidder could have met the goal. **The waiver request form must be submitted with your bid if you are requesting a waiver of any goal.**

Check if completed	Activity Description
	Solicited the interest of all certified <b>MBE/WBE/SBE/DLSB</b> or <b>HUD3</b> having the capability to perform the work of the contract. The bidder must solicit this interest at least ten (10) business days before bid submittal deadline in order to allow the <b>MBE/WBE/SBE/DLSB</b> or <b>HUD3</b> sufficient time to respond to the solicitation. Electronic communication will not be deemed as sufficient good faith effort, if it is the sole method of communication used.
	Divided contract work items into economically feasible units to facilitate <b>MBE/WBE/SBE/DLSB</b> or <b>HUD3</b> participation, even when the bidder might otherwise prefer to perform these work items with its own forces.
	Negotiated with <b>MBE/WBE/SBE/DLSB</b> or <b>HUD3</b> subcontractors, and has taken the subcontractors' price and capabilities, as well as the contract goals, into consideration. Rejected <b>MBE/WBE/SBE/DLSB</b> or <b>HUD3</b> as being unqualified only with reasons based on a diligent investigation of their capabilities. The bidder's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example, union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the bidder's efforts to meet the project goal.
	Provided interested <b>MBE/WBE/SBE/DLSB</b> or <b>HUD3</b> with plans and specifications at no cost, or directed to, the Minority Business Assistance Center (MBAC) for information about the plans, specifications, and requirements of the contract at least ten (10) business days of the bid submittal deadline in order to assist them in responding to a solicitation.
	Sought the assistance of the Minority Business Assistance Center (MBAC) or used the services of community organizations, contractors' groups, local, state or federal business assistance offices, or similar organizations to find subcontractors certified as (circle one: <b>MBE/WBE/SBE/DLSB</b> or <b>HUD3</b> ). Contacting HRC for the certified list will not be deemed as sufficient good faith efforts.
Bidding Company Name:	

5%

(Circle one: SBE/MBE/WBE/DLSB/DBE/HUD Section 3) PARTICIPATION FORM

Project Name:

2016 Thoroughfare Asphalt Resurfacing

This form may be used for more than one funding source. City of Dayton general fund and State of Ohio funds: The City of Dayton has adopted procurement programs for Minority-owned, Woman-owned, Small Business Enterprises, and Dayton Local Small Business in accordance with Sections 35.30 - 35.68 of the Revised Code of General Ordinances (R.C.G.O.), inclusively. Federal funds: The City of Dayton is committed to meeting HUD-established subcontracting and employment opportunities for HUD Section 3 companies certified with the Human Relations Council. This commitment applies to all projects funded through NSP/CDBG/HOME. The City of Dayton is a recipient of Department of Transportation funds and complies with the DBE program. Authorization for the program comes from 49 Code of Federal Regulations Part 26 (49 CFR 26). State Funds: When determining the level of participation the, only the total work performed by the certified subcontractor either singularly or severally, will be considered. This form must be utilized to indicate your subcontractors and must be fully completed and returned with your bid proposal, i.e., you must list the name(s), address, etc. of the subcontractor, type of work to be performed, dollar amount of the subcontract and percentage of the base bid. Use as many copies of this form as necessary to list all subcontractors. Should you have questions regarding this form, please contact the Human Relations Council (HRC) Office. (937) 333-1403.

		Please Check One				Type of Service or Supply to be Provided	Type of Construction Work to be Performed
Firm Name, Tax I.D. Number and Mailing Address	Prime Contract Bid	Joint Venture Bid	Supply or Service Subcontract	Construction Subcontract			
Certified Business Firm Name:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Traffic / Border signs	Traffic border signs \$ 35000.00	
Tax I.D. Number:	First star						
Street Address:	42-1719025						
City/State/ Zip Code:	4 Kovach Drive Suite 430						
Phone (area code/#):	Cincinnati OH 45215						
E-mail:	513-661-7827						
				markhouseholder@firststarsafety.com			

Total \$ Amount of PRIME CONTRACTOR'S Base Bid: 699856.00 Total \$ to subcontract \$ 35000.00 Total % subcontract: 5.00%

John R. Jurgensen Co

PRIME CONTRACTOR'S REPRESENTATIVE			
Print Name:	Peter W. Flora	Street Address	1780 Enon Road
Sign Name:	<i>[Signature]</i>	City/State/Zip	Springfield OH 45502

# WAIVER REQUEST DOCUMENTED ACTIVITY FORM

Date \_\_\_\_\_

Project: \_\_\_\_\_ Participation Goal (list only one): \_\_\_\_\_

A bidder must submit a separate form for each goal for which you are requesting a waiver. A bidder requesting a total or partial waiver of the, **MBE/WBE/SBE/DLSB or HUD3** Participation Goal must maintain supporting documentation and will be required to provide such documentation within two days of its request. The bidder must provide a written explanation of the good faith effort for all activities listed on the waiver form at the time the bid is submitted. If no explanation is provided, the waiver form will not be accepted. The City of Dayton Human Relations Council (HRC) shall review and evaluate the bidder's efforts to meet and comply with the project participation goal. A bidder will be granted a waiver for the **MBE/WBE/SBE/DLSB or HUD3** goal based on your good faith efforts; and only where the HRC determines that the bidder has completed all items in the following list of activities. In determining whether a bidder has made good faith efforts, the Executive Director of the Council, or his/her designee, may take into account the performance of other bidders in meeting the contract. For example, when the apparent successful lowest and best bidder fails to meet the contract goal, but others meet it, the Executive Director of the Council, or his/her designee, may reasonably raise the question of whether, with additional reasonable efforts, the apparent successful bidder could have met the goal. **The waiver request form must be submitted with your bid if you are requesting a waiver of any goal.**

Check if completed	Activity Description
	Solicited the interest of all certified <b>MBE/WBE/SBE/DLSB or HUD3</b> having the capability to perform the work of the contract. The bidder must solicit this interest at least ten (10) business days before bid submittal deadline in order to allow the <b>MBE/WBE/SBE/DLSB or HUD3</b> sufficient time to respond to the solicitation. Electronic communication will not be deemed as sufficient good faith effort, if it is the sole method of communication used.
	Divided contract work items into economically feasible units to facilitate <b>MBE/WBE/SBE/DLSB or HUD3</b> participation, even when the bidder might otherwise prefer to perform these work items with its own forces.
	Negotiated with <b>MBE/WBE/SBE/DLSB or HUD3</b> subcontractors, and has taken the subcontractors' price and capabilities, as well as the contract goals, into consideration. Rejected <b>MBE/WBE/SBE/DLSB or HUD3</b> as being unqualified only with reasons based on a diligent investigation of their capabilities. The bidder's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example, union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the bidder's efforts to meet the project goal.
	Provided interested <b>MBE/WBE/SBE/DLSB or HUD3</b> with plans and specifications at no cost, or directed to, the Minority Business Assistance Center (MBAC) for information about the plans, specifications, and requirements of the contract at least ten (10) business days of the bid submittal deadline in order to assist them in responding to a solicitation.
	Sought the assistance of the Minority Business Assistance Center (MBAC) or used the services of community organizations, contractors' groups, local, state or federal business assistance offices, or similar organizations to find subcontractors certified as (circle one: <b>MBE/WBE/SBE/DLSB or HUD3</b> ). Contacting HRC for the certified list will not be deemed as sufficient good faith efforts.
Bidding Company Name:	

BY Ms. Whaley

NO. 31488-16

**AN ORDINANCE**

Approving the Rules and Regulations of the City of Dayton, Ohio Environmental Advisory Board, and Declaring an Emergency.

**WHEREAS,** The public interest requires that the quality of the environment be protected, maintained, and improved; and

**WHEREAS,** The Environmental Advisory Board advises the City of Dayton on matters related to environmental quality of the City of Dayton; and

**WHEREAS,** The Environmental Advisory Board, subject to approval from the Commission, is required to adopt rules and regulations for its operation; and

**WHEREAS,** The Environmental Advisory Board has adopted rules and regulations for its operation and it is necessary for the immediate preservation of the public peace, property, health and safety that this ordinance approving those rules and regulations take effect at the earliest possible date; now, therefore,

**BE IT ORDAINED BY THE COMMISSION OF THE CITY OF DAYTON:**

**Section 1.** That this Commission hereby approves the Environmental Advisory Board's Rules and Regulations, which are attached hereto and incorporated herein by references.

**Section 2.** That for the reasons stated in the preamble hereof, this Ordinance is declared to be an emergency measure and shall take effect immediately upon its passage.

PASSED BY THE COMMISSION... MAY 4 ....., 2016

SIGNED BY THE MAYOR... MAY 4 ....., 2016

Ms. Whaley  
Mayor of the City of Dayton, Ohio

ATTEST:

Rashella Lunsford  
Clerk of Commission

APPROVED AS TO FORM:

Joseph R. Waldman Jr  
City Attorney

**RULES AND REGULATIONS OF THE CITY OF DAYTON, OHIO  
ENVIRONMENTAL ADVISORY BOARD**

**ARTICLE I. PURPOSE**

The purpose of the Environmental Advisory Board ("Board") is to ensure the quality of the environment be protected, maintained and improved and to assure that the operations of the City of Dayton are not harmful to the environment. The Board serves as an advisor to the City Manager, the City Commission, City Departments, Boards, Regional Agencies and citizens on matters related to the environmental quality of the City of Dayton, either in response to requests from the City or as a result of a need observed by the Board.

**ARTICLE II. MEMBERSHIP**

- A. There shall be nine (9) members of the Board serving no more than nine (9) consecutive years on the Environmental Advisory Board. Any member of the Board who fails to attend three (3) consecutive meetings without communication of an explanation for the absence to the Chairperson shall be presumed to have resigned from membership on the Board and shall be notified of the presumption.
  
- B. Associate Board Membership. At the option of the Board, Associate Board Members may be recruited from surrounding area colleges and universities. Associate Board Members shall be appointed by the Board and serve for a term of two years. Prospective appointees shall be recommended by representatives of institutions of higher education from the Dayton region. The Board shall select Associate Members based on their interest, expertise, creativity, and a demonstrated commitment to the resolution of environmental concerns. Associate Members contribute to the deliberations of the Board in a non-voting capacity and are not considered members for purposes of determining a quorum of the Board.
  
- C. Those ineligible for membership shall include:
  - 1. Those holding elective office in the city of Dayton;
  - 2. Individuals who have a substantial and continuing conflict of interest.

**ARTICLE III. OFFICERS**

The Board shall select, each year, one of its members to serve as Chairperson, another to serve as Vice Chairperson, and such other officers as the Board may deem appropriate for the implementation of its business. The term of office for each officer shall normally expire at the date of the first meeting of the Board in January, at which time new officers shall be elected by members of the Board.

**ARTICLE IV. COMUNUNICATIONS**

A. Board Spokesman. The normal spokesperson of the Board shall be its Chairperson, or, if the Chairperson is unavailable, its Vice Chairperson.

B. Personal Viewpoints. When any member of the Board is called upon to answer questions, make speeches, or to make other public communications connected with matters before the Board, the member of the Board should distinguish his or her personal viewpoints from the official action of the Board with the following guidelines:

1. A truthful statement of whether or not a particular subject has been under consideration by the Board may be made;
2. A statement of whether or not the Board has made a decision or a recommendation may be made and the substance of the decision or recommendation may be disclosed; and
3. The Board member may make a statement of his own personal opinion of the subject matter, but must be careful to differentiate his personal opinion from the decision or recommendation made by the Board.

## **ARTICLE V. MEETINGS**

Board meetings shall be scheduled at a time and place convenient to the largest number of the members of the Board.

A. Frequency of Meetings: Meetings ordinarily will be held at least once a month. Special meetings will be held if the City Manager or a member of the City Commission requests a meeting or the Board Chairperson calls a meeting to attend to a problem that cannot practically be deferred until the next scheduled meeting.

B. Agenda: An agenda shall be published for each meeting and mailed to members of the Board in advance of each meeting and to the Clerk of the City Commission, the City Manager, Directors of City Departments and Heads of Boards and Agencies, and to persons requesting same.

C. Minutes: Minutes shall be prepared for each meeting and circulated to all members of the Board prior to the meeting following the meeting for which the minutes were prepared.

D. Order of Business: Any member of the Environmental Advisory Board may discuss any matter that is before the Board and may bring any matter of the environmental quality concern to the attention of the Board at any meeting.

E. Outside Speakers: The City Manager, the representative of any City Department, or any member of the City Commission may speak at any meeting of the Environmental Advisory Board with the purpose of presenting a problem or requesting advice or assistance. People who are not members of the Environmental Advisory Board may be invited to speak to the Environmental Advisory Board at its regular meetings or at special meetings. Any person may submit a written request to the Chairperson for permission to speak at a meeting of the Environmental Advisory Board. The Chairperson shall have the authority to approve or reject the request, or to approve the request with whatever conditions the Chairperson deems reasonable

with regard to length of time for the presentation and definition of subject matter to be discussed. The Chairman shall report all such requests and his actions with regard to such requests to the Board which may overrule the Chairpersons decision by a majority vote.

F. Open Meetings: Every meeting of the Board shall be open to the public.

G. Quorum: Five members shall constitute a quorum at all meetings of the Board.

H. Notice of Meetings: The Board shall post notice of the time and place of its regular meetings on the City of Dayton's website and shall issue a news release to all media that have requested notification of the meetings. For any meetings other than its regular meetings, the Board shall also issue a statement of the meeting's purpose and post it on the website as well as include it in the news release. When requested, individuals can receive email notification of every meeting by filling out an application with the City of Dayton Office of Public Affairs.

## **ARTICLE VI. CONFLICT OF INTEREST**

Membership in the Board does not constitute holding a public office under the provisions of Ohio Revised Code 102.01; nevertheless, no member of the Board shall participate in the discussion or in the decision-making process in any matter where he or she is aware of the fact that a financial, personal or professional interest creates a conflict of interest. If a member has a conflict of interest he or she is required to abstain from the discussion and voting and is encouraged to absent himself from the discussion. If a member has a question as to whether or not he or she has a conflict of interest, he may disclose the fact to the Board with the request for a decision on the question whether or not there is a conflict. Any member of the Board may raise by motion the question of whether or not another member of the Board has a conflict of interest which would preclude that member from participation in the discussion or decision-making process on any particular subject. The Board shall consider the motion and render a decision.

## **ARTICLE VII. AUTHORITY**

A. R.C.G.O. Section 44.44 provides the Board with the power to call before it any officer or employee as the Board shall deem appropriate to provide information necessary for the exercise of its duties.

B. R.G.C.O. Section 53.23 provides the Board with jurisdiction over applications to exempt chemicals from the City of Dayton's Source Water Protection Ordinance, R.C.G.O. Sections 53.01-53.99.

C. Pursuant to R.G.C.O. Section 53.42, the Board is given the authority to take appeals, investigate matters related to said appeals, deny, uphold, or otherwise modify or waive the Water Director's (the "Director") actions on a case by case basis from Notices of Violation pursuant to Section 53.43; from assessments issued under Section 53.99; and from actions taken pursuant to Section 53.41.

## **ARTICLE VIII. EXEMPTIONS OF CHEMICALS PURSUANT TO R.C.G.O. 53.23**

A. APPLICATION

An application for substance exemption pursuant to the requirements of the Dayton Source Water Protection Ordinance, R.C.G.O. Section 53.23, must be filed with the Chairperson, Environmental Advisory Board, 320 W. Monument Avenue, Dayton, Ohio 45402.

Every application for chemical exemption shall consist of a letter requesting the exemption of the substance(s) and be accompanied by the following:

1. Name of the substance and all chemical compounds;
2. State of substance: Solid, gaseous, liquid, or other form;
3. Safety Data Sheet (Globally Harmonized System of Classification and Labeling of Chemicals) or Material Safety Data Sheet;
4. Reason(s) why the substance should be exempted from the SWPP reporting;
5. Name, address, phone number, and e-mail address of applicant and a brief description of the applicant's business.
6. Note: Additional information such as the following may be requested by the EAB:
  - a. The rationale, addressing fate and transport pathways and potential risks to human health, natural resources and the environment, supporting the exemption of the chemical(s);
  - b. A listing of all known combustion and incomplete combustion products of the substance(s).

#### B. INITIAL DETERMINATION OF EAB WATER COMMITTEE

The EAB's Water Committee shall review the application and shall determine if the information provided in the application is sufficient or if additional information is necessary and/or useful for the exemption. If the EAB Water Committee determines that additional information is necessary or useful for the exemption, then the EAB Water Committee shall send a written request for additional information in order to evaluate the exemption. The review of the exemption shall not be continued until the applicant provides the EAB Water Committee with the requested information. Should the applicant fail to provide the requested information within sixty (60) days, the request shall be deemed abandoned, and the matter closed.

Once the EAB Water Committee is satisfied that the application is sufficient and it has the necessary information, it shall make an initial written recommendation to the Chairperson using the criteria listed below.

##### 1. CRITERIA FOR DETERMINING AN EXEMPTION

A substance may only be exempted where it is proven by clear and convincing evidence that its solubility, toxicity, and products resulting from complete or incomplete combustion, degradation, and reaction pose no risk of adversely affecting groundwater. Areas of consideration include, but are not limited to:

- a. Fate and transport pathway: The potential to move and/or change.
- b. Health Risk.

In considering the risk, credible worst case scenarios, such as fire, explosion, or chemical incident shall be considered. Substances that may react during a fire, explosion or chemical incident and that may ultimately enter the aquifer may not be exempted regardless of the

potential hazards of the substance in and of itself. Additional relevant factors may be considered at the discretion of the Board.

## 2. REQUEST FOR A HEARING.

Notice of the recommendation of the EAB Water Committee will be sent by the Chairperson to the applicant as well as the Director of the Department of Water. If the EAB Water Committee recommends denying the exemption, the applicant shall have twenty (20) days from the date the Chairperson mails the written recommendation to submit a written request to the Chairperson for a hearing before the Board on the exemption. If the applicant fails to request a hearing within the twenty (20) day period, the applicant will be deemed to have waived its right to a hearing on the matter and the request for an exemption will be deemed denied.

If the applicant timely requests a hearing on the exemption or the EAB Water Committee recommends approval of the exemption, the matter will be scheduled for a hearing before the Board for a final determination on the exemption. The Chairperson shall schedule the hearing before the Board within sixty (60) days of the date the applicant requested the hearing, or a later time if agreed to by the applicant.

## C. HEARING BEFORE THE BOARD

### 1. NOTICE

All hearings of the Board on exemptions shall be public and written notice stating the date, time and location of such hearing shall be sent at least fourteen (14) days in advance of such hearing to the applicant. Furthermore, the Board shall post notice of the hearing on the City of Dayton's website. The notice shall state the applicant's name and address; the name of the substance sought to be exempted; and the date, time, and location of the hearing. In addition, when requested, individuals can receive email notification of the hearing by filling out an application with the City of Dayton Office of Public Affairs.

### 2. PROCEDURE

Quorum for the hearing shall be five (5) members of the Board. The Board shall have full authority to control the procedure of the hearing, including the authority to admit or exclude testimony or other evidence and to rule upon all objections. In doing so, the Board shall not be bound by the Rules of Evidence. The Board conducting the hearing shall have the authority to take any actions that it deems necessary and proper for the conduct of such hearing. All testimony shall be taken under oath or affirmation, and shall be recorded by a certified stenographic reporter. The parties at the hearing shall be the Director of the Department of Water, represented by the City Attorney, and the applicant. All testimony shall be subject to cross-examination by the party against whom it is offered.

### 3. DECISIONS OF THE BOARD

The Board, after due consideration of the record, shall within thirty (30) days after the hearing issue a decision on the exemption. A concurring vote of the majority of the members of the Board shall be necessary to grant an exemption. In the event of a tie vote of the members of the Board, the exemption will be deemed denied. The decision of the Board shall be filed with the

Chairperson, and the Chairperson shall serve copies of the decision upon the applicant and the Director. The decision of the Board shall be a final order, and may be appealed either by the applicant or the City of Dayton, as provided by Ohio law.

#### D. REOPENING OF DECISION GRANTING EXEMPTION

##### 1. NOTICE

If the Board after granting an exemption obtains new information establishing that the exempted substance does in fact pose a risk to groundwater, the Board has the authority to schedule a hearing to determine whether the exemption should remain. The Chairperson shall provide written notice to the applicant at its last known address describing the new information and providing 30-day's notice of the scheduled hearing. Likewise, the Board shall post notice of the hearing on the City of Dayton's website. The notice shall contain the time, date, and location of the hearing, along with the chemical substance at issue. When requested, individuals can receive email notifications of every hearing by filling out an application with the City of Dayton Office of Public Affairs.

##### 2. PROCEDURE

Quorum for the hearing shall be five (5) members of the Board. The Board shall have full authority to control the procedure of the hearing, including the authority to admit or exclude testimony or other evidence and to rule upon all objections. In doing so, the Board shall not be bound by the Rules of Evidence. The Board conducting the hearing shall have the authority to take any actions that it deems necessary and proper for the conduct of such hearing. All testimony shall be taken under oath or affirmation, and shall be recorded by a certified stenographic reporter. The parties at the hearing shall be the Director of the Department of Water, represented by the City Attorney, and the applicant that had originally obtained the exemption. All testimony shall be subject to cross-examination by the party against whom it is offered.

##### 3. DECISION OF THE BOARD

The Board, after due consideration of the record, shall within thirty (30) days after the hearing issue a decision on the exemption. The Board shall withdraw the exemption if it determines that based upon the new information entered into the record that the substance poses a risk to groundwater. A concurring vote of the majority of the members of the Board shall be necessary to revoke an exemption. In the event of a tie vote of the members of the Board, the exemption shall remain. The decision of the Board shall be filed with the Chairperson, and the Chairperson shall serve copies of the decision on the last known address of the original applicant and the Director of the Department of Water. The decision of the Board shall be a final order, subject to appeal under Ohio law.

#### **ARTICLE IX. APPEALS FROM WATER DIRECTOR'S DECISION PURSUANT TO R.C.G.O. 53.42**

##### A. NOTICE OF APPEAL

The Director shall forward all appeals filed in accordance with Section 53.42 to the Chairperson of the Environmental Advisory Board for review (Chairperson). If the Chairperson deems a notice of appeal incomplete, the Chairperson shall notify the appellant in writing that the notice of appeal is incomplete and that the notice of appeal will be denied, unless the required supplemental information and/or documentation is filed with the Chairperson within ten (10) days. If the complete notice of appeal with all of the requested information and/or documentation is not filed with the Chairperson within ten (10) days, the appellant shall be deemed to have waived its right to appeal and the appeal shall be deemed denied and the Chairperson shall notify the appellant in writing.

If the Chairperson determines that the notice of appeal is complete, the Chairperson shall schedule a hearing before the Board within sixty (60) days of the date that the notice of appeal was filed, unless the appellant agrees to a later date for the hearing.

## B. HEARING BEFORE THE BOARD

### 1. NOTICE

All hearings of the Board to rule upon appeals pursuant to Section 53.42 shall be public and written notice stating the date, time and location of such hearing shall be sent at least fourteen (14) days in advance of such hearing to the appellant. Further, the Board shall post notice of the hearing on the City of Dayton website. Notice shall include the location, date, and time of the hearing, as well as the name of the appellant, and the subject matter of the appeal. When requested, individuals can receive email notification of the hearing by filling out an application with the City of Dayton's Office of Public Affairs.

### 2. PROCEDURE

Quorum for the hearing shall be five (5) members of the Board. The Board shall have full authority to control the procedure of the hearing, including the authority to admit or exclude testimony or other evidence and to rule upon all objections. In doing so, the Board shall not be bound by the Rules of Evidence. The Board conducting the hearing shall have the authority to take any actions that it deems necessary and proper for the conduct of such hearing. All testimony shall be taken under oath or affirmation, and shall be recorded by a certified stenographic reporter. The parties at the hearing shall be the Director of the Department of Water, represented by the City Attorney, and the appellant. All testimony shall be subject to cross-examination by the party against whom it is offered.

### 3. DECISION OF THE BOARD

The Board, after due consideration of the record, shall within thirty (30) days after the hearing issue a decision on the appeal in writing, which decision may be to affirm, disaffirm, or modify the Director's decision being appealed. A concurring vote of the majority of the members of the Board shall be necessary to reverse or modify any decision of the Director. In the event of a tie vote by the members of the Board, the action of the Director shall be considered as having been affirmed by the Board. The decision of the Board shall be filed with the Chairperson, and the Chairperson shall serve copies of the decision upon the appellant and the Director. The decision of the Board shall be a final order, and may be appealed either by the appellant or the City of Dayton, as provided by Ohio law.

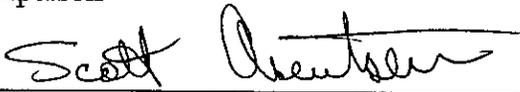
**ARTICLE X. AMENDMENTS**

These Rules and Regulations may be amended or modified by the Board subject to the approval of the City Commission

City of Dayton  
Environmental Advisory Board

Adopted: 4-8-16

By:   
Chairperson

Attest:   
Vice-Chair

1011111111111111



5.

April 1, 2016

TO: Members of the City Commission

FROM: Greg Scott, President  
City Plan Board

*Greg Scott/ams*

*P. H. - May 4, 2016  
6:00 P.M.*

*CASE NO. Z-002-2016*

**SUBJECT:** Transmittal of Report for City Plan Board Case Z-002-2016  
Rezone 0.86 Acres Located at 129 South Perry Street from CBD to  
CI to Allow for a New Addition to the Health Sciences Building at  
Sinclair Community College

**Applicant:** Mr. John Fabelo  
LWC for Sinclair Community College  
434 East First Street  
Dayton, OH 45402

**Description:** Rezone 0.86 acres located at 129 South Perry Street from CBD Central  
Business District to CI Campus-Institutional to allow for a new addition to  
the Health Sciences Building at Sinclair Community College

**Board Action:** Date: March 8, 2016 Decision: Recommended Approval

**Attachments:** 1. City Plan Board Minute Record  
2. Plan Board Case Report  
3. Copy of Ordinance

If you have any questions, please contact Ann Schenking at 333-3699.

GS/ams

c: Ms. Shelley Dickstein  
Mr. Joe Parlette  
Ms. Tammi Clements  
Mr. Aaron Sorrell  
Mr. Brian Inderrieden  
Mr. Carl Daugherty  
Ms. Ann Schenking  
Applicant  
Case File



## MEMORANDUM

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March 24, 2016

**TO:** Rashella Lavender, Clerk of Commission  
Office of the City Commission

**FROM:** Ann Schenking, Secretary *AS*  
City Plan Board

**SUBJECT:** Advertise Public Hearing for City Plan Board Case Z-002-2016  
Rezone 0.86 Acres Located at 129 South Perry Street from CBD to  
CI to Allow for a New Addition to the Health Sciences Building at  
Sinclair Community College

**Applicant:** Mr. John Fabelo  
LWC for Sinclair Community College  
434 East First Street  
Dayton, OH 45402

**Description:** Rezone 0.86 acres located at 129 South Perry Street from CBD Central  
Business District to CI Campus-Institutional to allow for a new addition  
to the Health Sciences Building at Sinclair Community College

**Board Action:** Date: March 8, 2016      Decision: Recommended Approval

**Request:** The Clerk is authorized by the R.C.G.O. to set the public hearing and provide  
the appropriate notice. **It is requested that the Public Hearing be  
scheduled for Wednesday, May 4, 2016, at 6:00 P.M.**

**Advertising:** Advertise Public Hearing on **Friday, April 1, 2016**  
Advertise in a newspaper of general circulation and mail a notice to mailing  
list when the notice is published.

**Attachments:** Legal Notice  
Mailing List

If you have any questions, please contact me at 333-3699.

c: Case File, w/ attachment



**City of Dayton  
Office of the City Commission  
City Hall • 101 West Third Street  
Dayton, Ohio 45402  
(937) 333-3636**

**Legal Notice**

Notice is hereby given that the Dayton City Commission will hold a Public Hearing on Wednesday, May 4, 2016, at 6:00 P.M., or as soon thereafter as the hearing can begin, in the City Commission Chambers on the Second Floor of City Hall, 101 West Third Street, Dayton, Ohio on the following:

Official Zoning Map Amendment

Case: Z-002-2016

Rezone 0.86 acres located at 129 South Perry Street from CBD Central Business District to CI Campus-Institutional to allow for a new addition to the Health Sciences Building at Sinclair Community College.

The proposed Official Zoning Map Amendment is available for public inspection in the Office of the City Commission and with the Secretary to the City Plan Board. Please direct inquiries on this subject to Jon White in the Department of Planning and Community Development, (937) 333-3683 or [jon.white@daytonohio.gov](mailto:jon.white@daytonohio.gov).

By order of the City Commission of the City of Dayton, Ohio.

**RASHELLA LAVENDER, CLERK  
OFFICE OF THE CITY COMMISSION**



# City of Dayton

## City Plan Board

### Minute Record March 8, 2016

#### 4. Z-002-2016 – Zoning Map Amendment Public Hearing – Rezone 0.86 acres located at 129 South Perry Street from CBD to CI to allow for a new addition to the Health Sciences Building at Sinclair Community College

Applicant: Mr. John Fabelo  
LWC  
434 East First Street  
Dayton, OH 45402

Priority Board: Downtown

Neighborhood Planning District: Downtown

Decision: Recommended Approval

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#### Staff Comments

Jon White presented the staff report. He explained how the determinations and findings necessary to approve the case can be made and said staff recommended approval.

The applicant, Sinclair Community College, is seeking to rezone 0.86 acres located at 129 South Perry Street from Central Business District CBD to Campus Institutional CI to allow for a new addition to the Health Sciences Building. The proposed 69,000 square foot addition to the Health Sciences Building will be a 3-story addition built on the north side of the existing 75,802 square foot building. Currently, the site located on the corner of Perry and Fourth Streets, is split between CI and CBD. A zoning map amendment from CBD to CI will allow for site conformity for the Sinclair College affiliated building.

The proposed Life and Health Sciences Center will consolidate the majority of healthcare and science programs that are currently scattered across campus in one new facility that will become the new “front door” to the campus at Fourth Street. The facility will include approximately 100-120,000 square feet of classrooms, laboratories, offices, as well as social space to accommodate collaboration and project-based learning opportunities. The three-story building will be oriented around an atrium connecting the Lot D parking garage to the south, and Building 13 and Building 11 to the north. The goal of the new facility is to serve as a meeting place for students, faculty, industry representatives, and the Dayton community.

#### Public Comments

None.

#### Board Discussion

None.

#### Board Action

A motion was made by Mr. Bohardt, seconded by Mr. Payne and carried to recommend City Commission approval of Case Z-002-2016 based on the Plan Board’s ability to make the determinations specified in R.C.G.O. Section 150.125.7 (A) 1 through 8, as outlined in the staff report.

Ms. Beverly Pendergast	Yes	Mr. Jeff Payne	Yes
Mr. David Bohardt	Yes	Mr. Matt Sauer	Yes
Mr. Richard Wright	Absent	Mr. Greg Scott	Yes
Ms. Geraldine Pegues	Absent		

Minutes approved by the City Plan Board on April 12, 2016.

Ann Schenking, Secretary  
City Plan Board

March 8, 2016

**CITY PLAN BOARD REPORT  
CASE: Z-002-2016**

A Zoning Map Amendment to rezone 0.86 acres located at 129 South Perry Street (City lot:77778) from CBD to Campus Institutional CI to allow for a new addition to the Health Sciences Building at Sinclair Community College.

**BACKGROUND**

**Applicant:** John Fabelo, AIA  
LWC Inc  
434 East First Street  
Dayton, OH 45402

**Property Owner:** Sinclair Community College  
444 West Third Street  
Dayton, OH 45402

**Priority Board:** Downtown      **Neighborhood:** Downtown

**Board Authority:**  
R.C.G.O. §150.125.1 – §150.125.11 City Plan Board actions for amendments to the Official Zoning Map

**Applicable Plans and Policies:**  
CitiPlan 20/20 (1999)  
City of Dayton Zoning Code (2006)  
Sinclair College Campus Master Plan (2013)

**Agencies and Groups Contacted:**  
Property Owners within 250 feet  
Downtown Priority Board  
Downtown Dayton Partnership

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**AUTHORITY**

**150.125.1 Authority for Amendments**

The regulations imposed and the districts created under this Zoning Code may be amended from time to time by ordinance duly enacted by the City Commission. No such amendment shall be adopted except in accordance with the procedure specified in sub-sections 150.125.2 to 150.125.11, inclusive, of this Zoning Code. (Ord. 30515-05, passed 12-28-05)

STAFF ANALYSISCase Background:

The applicant, Sinclair Community College, is seeking to rezone 0.86 acres located at 129 South Perry Street from Central Business District CBD to Campus Institutional CI to allow for a new addition to the Health Sciences Building. The proposed 69,000 square foot addition to the Health Sciences Building will be a 3-story addition built on the north side of the existing 75,802 square foot building. Currently, the site located on the corner of Perry and Fourth Streets, is split between CI and CBD. A zoning map amendment from CBD to CI will allow for site conformity for the Sinclair College affiliated building.

The proposed Life and Health Sciences Center will consolidate the majority of healthcare and science programs that are currently scattered across campus in one new facility that will become the new “front door” to the campus at Fourth Street. The facility will include approximately 100-120,000 square feet of classrooms, laboratories, offices, as well as social space to accommodate collaboration and project-based learning opportunities. The three-story building will be oriented around an atrium connecting the lot D parking garage to the south, and Building 13 and Building 11 to the north. The goal of the new facility is to serve as a meeting place for students, faculty, industry representatives, and the Dayton community.

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REVIEW OF FINDINGS**R.C.G.O. §150.125.7 Amendments to Change Zoning Districts or Zoning Classification of Properties**

- 1. The change in classification would be consistent with the Comprehensive Plan of the City or other plans and policies.**

Yes. The zoning map amendment would apply an appropriate zoning designation—one that would conform with the Campus Institutional General Development Plan for Sinclair Community College.

- 2. The change in classification would be consistent with the intent and purpose of this Zoning Code.**

Yes. The request would rezone a portion of an existing Sinclair CC site from CBD to the appropriate Campus Institutional zoning district.

- 3. The proposed amendment is made necessary because of changed or changing conditions in the area affected, and if so, the nature of such changed or changing conditions.**

Yes. Sinclair is proposing a new addition to an existing Health Science Building. The new addition will intrude onto the portion of the site that is zoned CBD. The current zoning of the existing building is CI.

4. **The uses that would be permitted on the property if it were reclassified would be compatible with the uses permitted on other property in the immediate vicinity.**

Rezoning the northeast portion of the site from CBD to CI will allow the whole site to have the same CI zoning district designation and conform to the rest of Sinclair College's zoning district.

5. **The uses that would be permitted on the property if it were reclassified would have an adverse environmental or health impact on the immediate surrounding area in terms of acceptable air, noise, light, or water quality standards.**

6. The rezoning will not adversely effect on environmental or health impact on the immediate surrounding area in terms of acceptable air, noise, light, or water quality standards.

7. **Adequate utility, sewer, and water facilities, and all other needed public services exist or can be provided to serve the uses that would be permitted on a property if it were reclassified.**

Adequate utilities utility, sewer, and water facilities, and all other needed public services will exist.

8. **The amount of vacant land with the same zoning classification as proposed for the subject property, particularly in the vicinity of the subject property, and any special circumstances, if any, make a substantial part of such vacant land unavailable for development.**

The property is located in an urban environment with the Sinclair College campus to the north, south, and west, and CBD to the east.

9. **The proposed amendment would correct an error in the application of this Zoning Code as applied to the subject property.**

Yes. The property is owned by Sinclair Community College, and the rezoning will allow the site to conform to the rest of the college's designated CI zoning district.

#### ALTERNATIVES

1. Recommend approval of the Zoning Map Amendment application based on R.C.G.O. §150.125.7(1- 8).
  2. Recommend denial of the Zoning Map Amendment application based on the board's inability to make the findings under R.C.G.O. §150.125.7(1- 8).
-

**FUTURE ACTIONS**

If the Plan Board recommends approval for the proposed zoning map amendments, the request will be forwarded on to the City Commission for public hearing.

**Staff Report Prepared by:**

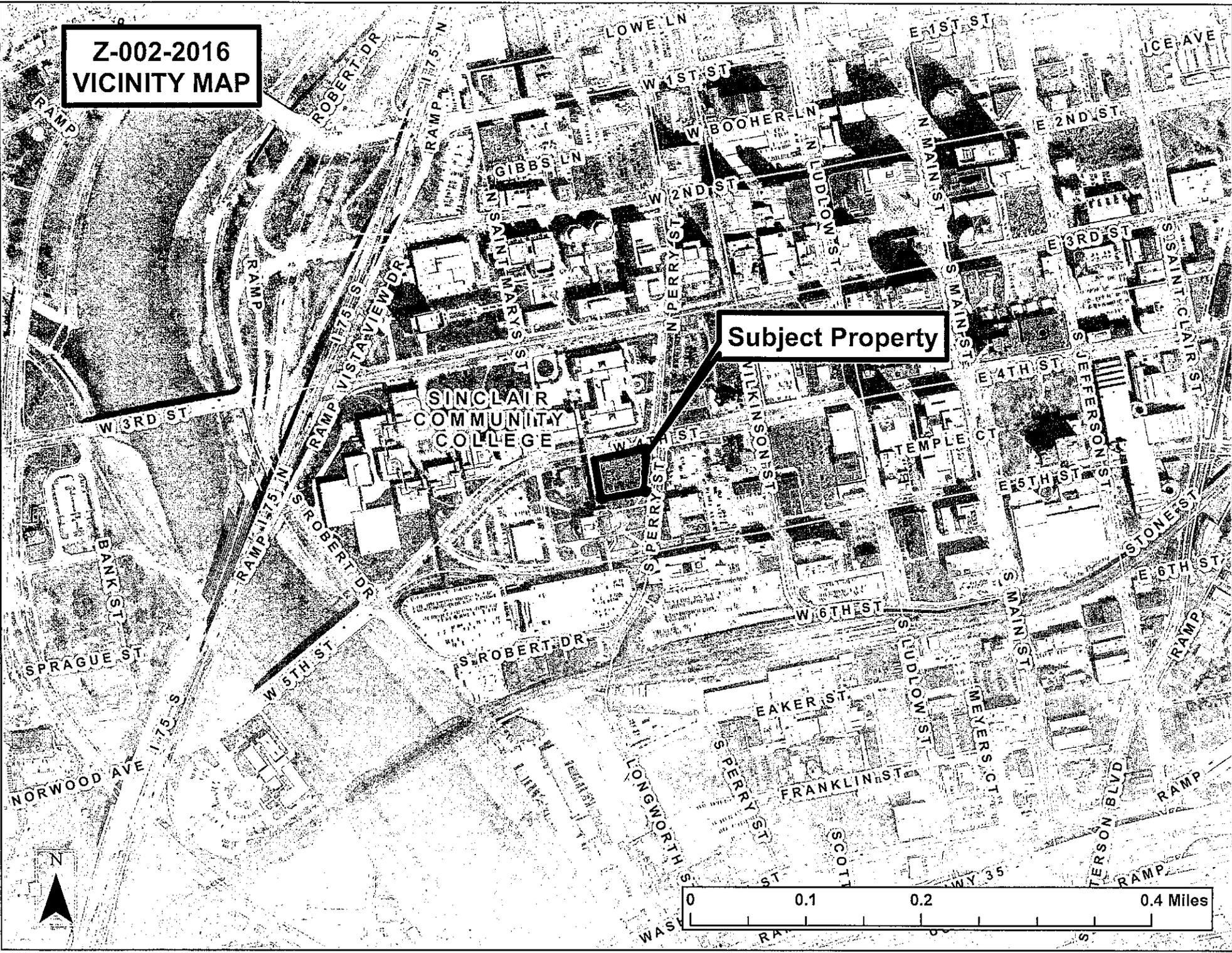
Jon White

**Staff Report Reviewed by:**

Brian Inderrieden

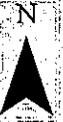
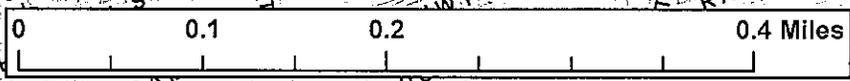
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**Z-002-2016  
VICINITY MAP**



**Subject Property**

**SINCLAIR  
COMMUNITY  
COLLEGE**



Z-002-2016  
AERIAL MAP

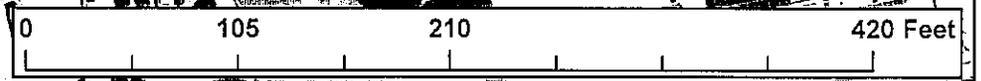
Subject Property

S SAINT MARYS ST

S PERRY ST

W 4TH ST

W 5TH ST



Z-002-2016  
ZONING MAP

Subject Property

W 4TH ST

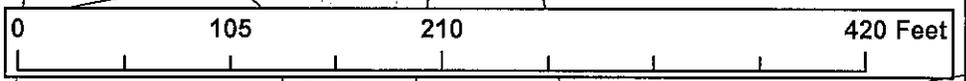
S PERRY ST

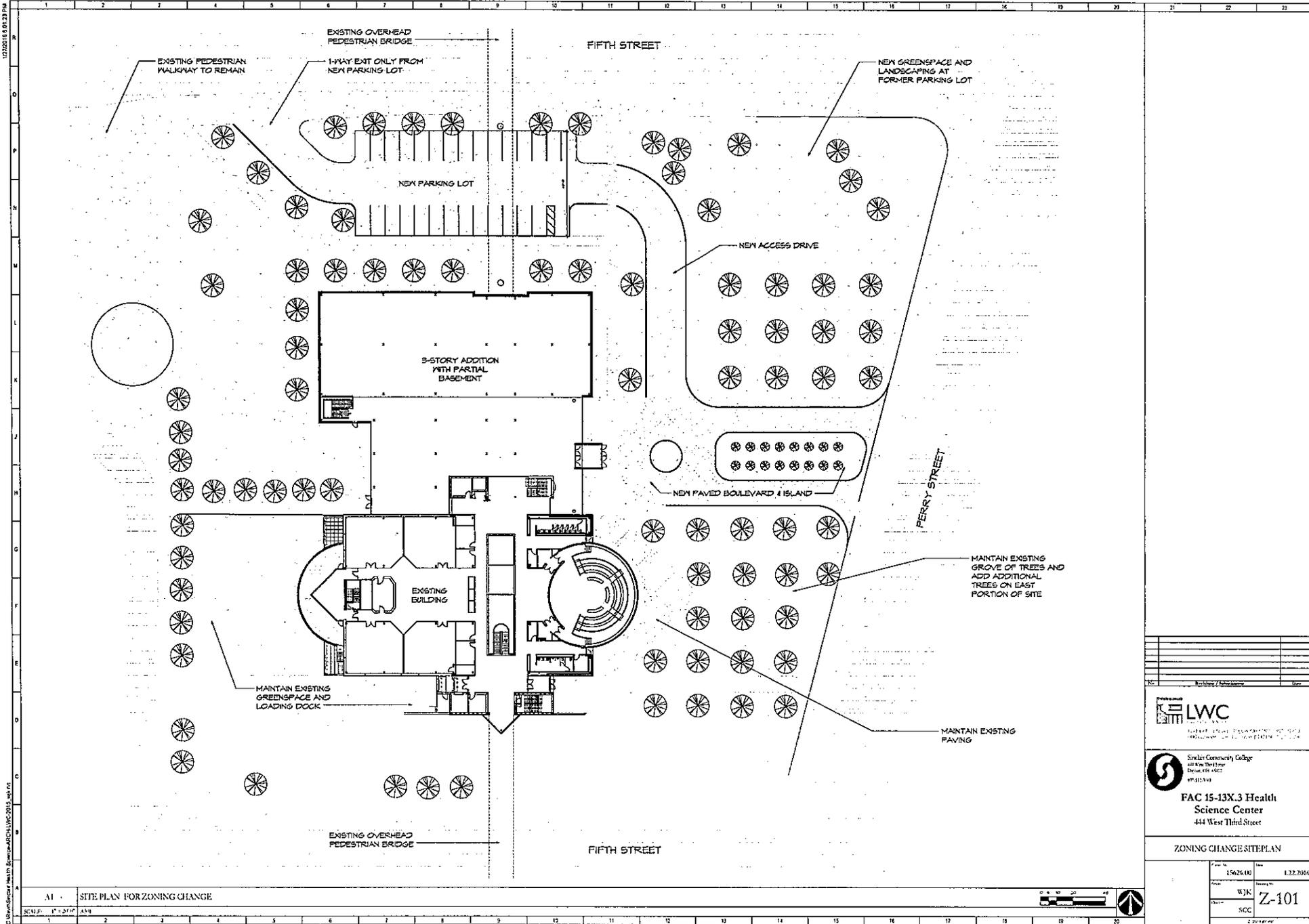
CBD

S SAINT MARYS ST

CI

W 5TH ST





07/20/15 08:32 PM  
 C:\Users\Public\Health Science\ARCH\LWC-2015\wp1.rvt

A1 SITE PLAN FOR ZONING CHANGE  
 SCALE: 1" = 20'-0"

No.	Revisions / Additions	Date

**LWC**  
 LIVING WITH COMMUNITY

Snyder Community College  
 414 West Third Street  
 Detroit, MI 48226  
 313.487.9443  
**FAC 15-13X.3 Health Science Center**  
 414 West Third Street

**ZONING CHANGE SITE PLAN**

Project No.	15026.00	Date	1.22.2016
Author	WJK	Checker	WJK
Discipline	SCC	Project No.	Z-101
			2/2/2016

BD OF COUNTY COMMISSIONERS  
451 W THIRD ST  
DAYTON OH 45422

BD OF TR MONTG CO COMM  
444 W 3RD ST  
DAYTON OH 45402 1421

MONT CTY MEDICAL SOCIETY  
40 S PERRY ST  
DAYTON OH 45402 1439

GENERAL SERVICES ADMIN  
100 E 5TH ST  
CINCINNATI OH 45202 3905

UNITED STATES OF AMERICA  
230 S DEARBORN ST  
CHICAGO IL 60604 1505

MESSENGERS OF MERCY  
138 S WILKINSON ST  
DAYTON OH 45402

ROMSPEN INVESTMENT CORP  
162 CUMBERLAND ST STE 300  
TORONTO ON M5R 3N5  
CANADA

GEM CITY DEMOCRATIC CLUB  
127 S WILKINSON ST  
DAYTON OH 45402 1807

DAYTON BD OF EDUCATION  
115 S LUDLOW ST  
DAYTON OH 45402

RAZAUSKAS THOMAS M  
234 S MILLS RD  
WILMINGTON OH 45177

DAYTON METRO HOUSING AUTH  
400 WAYNE AVE  
DAYTON OH 45410 1118

Robert Woodruff  
Facilities Management  
Sinclair Community College  
444 West Third St  
Dayton, OH 45402-1460

ST JOHNS LUTHERAN CH  
141 S LUDLOW ST  
DAYTON OH 45402 1812

GRAPHIC ARTS BUILDING LLC  
7587 LONDON LN  
BOCA RATON FL 33433

GARRETT DAY LLC  
163 KENTUCKY AVE  
LEXINGTON KY 40502

STATE OF OHIO DEPT OF TRANSPORT  
505 S STATE ROUTE 741 2ND FLOOR  
LEBANON OH 45036

MIAMI CONSERVANCY DIST  
38 E MONUMENT AVE  
DAYTON OH 45402 1210

Tony "Downtown" Kroeger  
101 West 3<sup>rd</sup> Street  
PO Box 22  
Dayton, OH 45401

Scott Murphy  
Director of Business Development  
Downtown Dayton Partnership  
10 W. Second Street, Suite 611  
Dayton, OH 45402

John C. Fabelo, AIA  
LWC Inc  
434 East First St  
Dayton, OH 45402

Ann Schenking, Secretary  
Plan Board  
101 West Third St.  
P.O. Box 22  
Dayton OH 45401

Rashella Lavender, Clerk  
City Commission  
101 West Third St.  
P.O. Box 22  
Dayton OH 45401.

EMERGENCY MEASURE  
1 Reading, 2 Separate Meetings  
2 Readings at One Meeting

By .....

No .....

**AN ORDINANCE**

Amending the Official Zoning Map to Rezone Property  
Located at 129 South Perry Street, and Declaring an  
Emergency.

**WHEREAS**, An application has been made by Sinclair Community College to rezone property located at 129 South Perry Street from Central Business District (CBD) to Campus-Institutional (CI) to allow for an addition to the building on the property; and,

**WHEREAS**, The City Plan Board, at its March 8, 2016, meeting, Case Z-002-2016, recommended approval of the request; and,

**WHEREAS**, There is a commitment to implement the project in a timely manner to provide needed services and employment opportunities; and,

**WHEREAS**, To meet the foregoing commitment and provide for the immediate preservation of the public peace, property, health or safety, it is necessary that this ordinance take effect immediately upon its passage, now, therefore,

**BE IT ORDAINED BY THE COMMISSION OF THE CITY OF DAYTON:**

Section 1. In accordance with the recommendation of the City Plan Board, as made in Case Z-002-2016, 129 South Perry Street is rezoned from Central Business District (CBD) to Campus-Institutional (CI). The property to be rezoned has a City Lot Number of 77778 and Parcel Identification Numbers of R72 00413 0001 and R72 00413 0006. The City's official zoning map shall be redrawn to reflect the rezoning of this property from Central Business District (CBD) to Campus-Institutional (CI).

Section 2. For the reasons stated in the preamble hereof, this Ordinance is declared to be an emergency measure and shall take effect immediately upon its passage.

Passed by the Commission ....., 2016

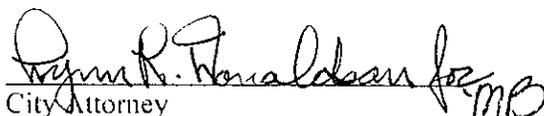
Signed by the Mayor ....., 2016

\_\_\_\_\_  
Mayor of the City of Dayton, Ohio

Attest:

\_\_\_\_\_  
Clerk of the Commission

Approved as to form:

  
\_\_\_\_\_  
City Attorney



MEMORANDUM

March 28, 2016

P.H. - May 4, 2016  
6:00 P.M.

**TO:** Rashella Lavender, Clerk of Commission  
Office of the City Commission

CASE NO. Z-003-2016

**FROM:** Ann Schenking, Secretary *AS*  
City Plan Board

**SUBJECT:** Advertise Public Hearing for City Plan Board Case Z-003-2016  
Amend Various Sections of the Zoning Code

**Applicant:** Mr. Aaron Sorrell for City Plan Board  
Department of Planning and Community Development  
City of Dayton  
101 West Third Street  
Dayton, OH 45402

**Description:** Amend various sections of the Zoning Code to correct omissions in the code, clarify terminology and provisions, make certain regulations consistent from one zoning district to another, and update regulations to reflect experience to date and emerging best practices. The proposed amendments will improve the administration and enforcement of the code.

**Board Action:** Date: March 8, 2016 Decision: Recommended Approval

**Request:** The Clerk is authorized by the R.C.G.O. to set the public hearing and provide the appropriate notice. **It is requested that a public hearing be set for Wednesday, May 4, 2016, at 6:00 P.M.**

**Advertising:** Advertise Public Hearing on **Monday, April 4, 2016**  
Advertise in the **Dayton Daily News** and mail a notice to mailing list when the notice is published

**Attachments:** Legal Notice  
Mailing List

If you have any questions, please contact me at 333-3699.



April 4, 2016

**TO:** Members of the City Commission

**FROM:** Greg Scott, President  
City Plan Board

*Greg Scott / ams*

**SUBJECT: Transmittal of Report for City Plan Board Case Z-003-2016  
Amend Various Sections of the Zoning Code**

**Applicant:** Mr. Aaron Sorrell for City Plan Board  
Department of Planning and Community Development  
City of Dayton  
101 West Third Street  
Dayton, OH 45402

**Description:** Amend various sections of the Zoning Code to correct omissions in the code, clarify terminology and provisions, make certain regulations consistent from one zoning district to another, and update regulations to reflect experience to date and emerging best practices. The proposed amendments will improve the administration and enforcement of the code.

**Board Action:** Date: March 8, 2016 Decision: Recommended Approval

**Attachments:**

1. City Plan Board Minute Record
2. Plan Board Case Report
3. Correspondence Received
4. Copy of Ordinance

If you have any questions, please contact Ann Schenking at 333-3699.

GS/ams

c: Ms. Shelley Dickstein, Mr. Joe Parlette, Ms. Tammi Clements, Mr. Aaron Sorrell,  
Mr. Brian Inderrieden, Mr. Carl Daugherty, Ms. Ann Schenking



**City of Dayton  
Office of the City Commission  
City Hall • Third & Ludlow  
Dayton, Ohio 45402  
(937) 333-3636**

### **Legal Notice**

Notice is hereby given that the Dayton City Commission will hold a Public Hearing on Wednesday, May 4, 2016, at 6:00 P.M., or as soon thereafter as the hearing can begin, in the City Commission Chambers located on the Second Floor of City Hall, 101 West Third Street, Dayton, Ohio on the following:

Official Zoning Code Text Amendments

Case: Z-003-2016

Amend various sections of the Zoning Code to correct omissions in the code, clarify terminology and provisions, make certain regulations consistent from one zoning district to another, and update regulations to reflect experience to date and emerging best practices. The proposed amendments will improve the administration and enforcement of the code.

The proposed Zoning Code Text Amendments are available for public inspection in the Office of the City Commission and with the Secretary to the City Plan Board. Inquiries on this subject should be directed to Ann Schenking in the Department of Planning and Community Development, (937) 333-3699 or [ann.schenking@daytonohio.gov](mailto:ann.schenking@daytonohio.gov).

By order of the City Commission of the City of Dayton, Ohio.

**RASHELLA LAVENDER, CLERK  
OFFICE OF THE CITY COMMISSION**



# City of Dayton

## City Plan Board

### Minute Record March 8, 2016

#### **5. Zoning Text Amendment Public Hearing – Make changes to various sections of the zoning code (R.C.G.O. Section 150) to clarify sections, make updates, and correct references**

Applicant: Mr. Aaron Sorrell for City Plan Board, Director  
Department of Planning and Community Development  
City of Dayton  
101 West Third Street  
Dayton, OH 45402

Priority Board: All

Neighborhood Planning District: All

Decision: Recommended Approval

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On February 9, 2016, staff presented a draft list of proposed 2016 zoning code text amendments to the Plan Board. At that meeting, the Plan Board provided direction and asked staff to initiate the amendments (Case Z-003-2016) on behalf of the Plan Board.

#### **Staff Comments**

Ann Schenking presented the staff report. She said the determinations and findings necessary to approve the case can be made and said staff recommended approval.

The current zoning code took effect August 1, 2006. Since then the code has been amended every year or so to increase its ability to effectively regulate land uses in the City of Dayton and improve its administration and enforcement. The proposed amendments will:

- Fix typos/incorrect references;
- Make provisions consistent from one zoning district to another;
- Correct oversights;
- Add definitions;
- Clarify or emphasize regulations and terms/spell out procedures;
- Remove unneeded regulation; and
- Recognize current business and planning practices.

On Tuesday, February 29, 2016, at the Dayton Cultural Center, 22 members of Dayton's Priority Land Use Boards met to review the draft amendments. Representatives from all five Land Use Boards attended the meeting. In short, those in attendance at this meeting recommend:

1. Keeping the current land use classifications for Type A day care homes (C for Conditional Use) and do not make them all P\* uses. The C classification requires notification to property owners within 250 feet and the applicable Land Use Board. Land Use Board members thought this notification was helpful to the applicant and neighbors.
2. Keeping the current regulation that does not permit wall murals on the front façades of buildings unless a variance is granted by the BZA. The group supports wall murals but due to differing tastes regarding art, did not necessarily want to see the artwork that appears on the side of buildings to be placed on front façades without a hearing before the BZA.
3. Amending the Zoning Code to increase opportunities for wall murals to be placed on nuisance and abandoned buildings.

Land Use Board members did not propose any changes to the remaining proposed text amendments. Ms. Schenking said staff supports making the changes proposed by the Land Use Boards if that is the desire of the Plan Board.

**Public Comments**

A summary of the February 29, 2016, Land Use Boards meeting on the case and the recommendations that resulted was attached to the staff report.

**Board Discussion**

The Plan Board discussed the case and agreed to make the changes to the proposed text amendments as recommended by the Land Use Boards and supported by staff.

**Board Action**

A motion was made by Mr. Bohardt, seconded Mr. Payne and carried to recommend City Commission approval of Case Z-003-2016 based on the Plan Board's ability to make the determinations specified in R.C.G.O. Section 150.125.6 as outlined in the staff report.

Ms. Beverly Pendergast	Yes	Mr. Jeff Payne	Yes
Mr. David Bohardt	Yes	Mr. Matt Sauer	Yes
Mr. Richard Wright	Absent	Mr. Greg Scott	Yes
Ms. Geraldine Pegues	Absent		

Minutes approved by the City Plan Board on April 12, 2016.

Ann Schenking, Secretary  
City Plan Board

**March 8, 2016**  
**CITY PLAN BOARD REPORT**  
**Case Z-003-2016**

**BACKGROUND:**

**Applicant:**

Aaron Sorrell for City Plan Board  
City of Dayton  
Department of Planning and Community Development  
101 West Third Street  
Dayton, OH 45402

**Interest:** Applicant

**REQUEST/DESCRIPTION:**

Zoning Code Text Amendments – Make changes to various sections of the zoning code (R.C.G.O. Section 150) to clarify sections, make updates, and correct references.

The current zoning code took effect August 1, 2006. Since then the code has been amended every year or so to increase its ability to effectively regulate land uses in the City of Dayton and improve its administration and enforcement. Staff asks if changes are needed to fix oversights, correct typos, make provisions consistent. Are changes needed to recognize current business practices? Can unnecessary regulations be removed? Are some provisions not working or at cross-purposes with other provisions in the code or city policies?

On February 9, 2016, staff presented a draft list of proposed 2016 zoning code text amendments to the Plan Board. At that meeting, the Plan Board provided direction and asked staff to initiate the amendments on behalf of the Plan Board.

Attached are a summary explanatory chart and the draft text amendment language. Numbers in the left margins of the draft text amendment language packet correspond to numbers in the summary chart. Proposed deletions are in ~~strike through~~ and proposed additions are in **bold** font. Generally, the text amendments fall into three groups: administrative changes, removing unneeded regulation, and recognizing current business and planning practices.

Among the proposed administrative changes are:

- Fix typos/incorrect references (#8, 21, 22, 24, 27, 29, 30, 32, 52, 60, and 62 on summary chart);
- Make provisions consistent (#1, 4, 5, 40, 47, 53, and 55 on summary chart);
- Correct oversights (#19, 26, 57, and 66 on summary chart);
- Add definitions (#12, 14, 15, and 64 on summary chart); and
- Clarify or emphasize regulations and terms/spell out procedures (#2, 4, 6, 7, 10, 13, 17, 33, 34, 35, 36, 37, 38, 39, 45, 51, 63, 68, and 69 on summary chart).

Amendments that remove unneeded regulation are #44, 46, 50, 54, 56, and 65 on the summary chart. A final group of proposed amendments recognize current business and planning practices: (#3, 9, 11, 16, 18, 20, 23, 25, 28, 31, 41, 42, 43, 48, 49, 58, 59, 61, and 67 on summary chart).

On Tuesday, February 29, 2016, at the Dayton Cultural Center, 22 members of Dayton's Priority Land Use Boards met to review the draft amendments. Representatives from all five Land Use Boards attended the meeting. A summary of that meeting is attached to this staff report. In short, those in attendance at this meeting recommend:

1. Keeping the current land use classifications for Type A day care homes (C for Conditional Use) and do not make them all P\* uses. The C classification requires notification to property owners within 250 feet and the applicable Land Use Board. Land Use Board members thought this notification was helpful to the applicant and neighbors.
2. Keeping the current regulation that does not permit wall murals on the front façades of buildings unless a variance is granted by the BZA. The group supports wall murals but due to differing tastes regarding art, did not necessarily want to see the artwork that appears on the side of buildings to be placed on front façades without a hearing before the BZA.
3. Amending the Zoning Code to increase opportunities for wall murals to be placed on nuisance and abandoned buildings.

Land Use Board members did not propose any changes to the remaining proposed text amendments. Staff supports making the changes proposed by the Land Use Boards if that is the desire of the Plan Board.

Planning staff believes the determinations outlined in Section 150.125.6 (Amendments to Text) can be made and recommends Plan Board approval of the amendments.

#### **BOARD AUTHORITY:**

##### **150.125.1 Authority for Amendments**

The regulations imposed and the districts created under this Zoning Code may be amended from time to time by ordinance duly enacted by the City Commission. No such amendment shall be adopted except in accordance with the procedure specified in sub-sections 150.125.2 to 150.125.11, inclusive, of this Zoning Code.

##### **150.125.8 Recommendation by Plan Board**

- (A) Within sixty (60) days from receipt of a completed application for the proposed amendment, a public hearing will be held as described in sub-section 150.125.5, unless the applicant agrees to a later date for the public hearing. After the conclusion of the public hearing, the Plan Board shall recommend one of the following to the City Commission.
- (1) That the amendment be granted as requested;
  - (2) That the amendment be granted as modified by the Plan Board; or
  - (3) That the amendment be denied.

#### **APPLICABLE PLANS AND POLICIES:**

##### **150.100.3 Purpose**

The purpose of this Zoning Code is to promote and uphold the public health, safety, and general welfare of the City through regulation of land and of the type, size, and use of structures. More specific purposes are to:

- (A) Establish districts of such classification and number to implement any applicable plans, including the City's Comprehensive Plan that encourages the most appropriate uses of the land and guides the future development of the City.
- (B) Stabilize, preserve, and increase property values, to protect against congested and unsafe traffic conditions, to provide safety from hazards such as fire, flood, water and air contamination, and to guarantee adequate light and air and open space to all residents of the City.
- (C) Encourage compatibility between different land uses and protect the scale and character of existing development from the encroachment of incompatible uses and structures.
- (D) Preserve unique historical and/or natural features of structures or land within the City.
- (E) Regulate and restrict the location, bulk, height, design and land coverage of buildings to protect the character and value of the City's residential, business, industrial, institutional and recreational areas.
- (F) Regulate the area and dimension of lots, yards and other open spaces.
- (G) Regulate and limit the density of population to prevent overcrowding of the land and excessive concentration of the population.
- (H) Ensure efficient traffic circulation, manage congestion on the streets and improve public safety by locating buildings and uses adjacent to streets in such a manner that they will cause the least interference with, and be damaged least by, traffic movements.
- (I) Facilitate development of land uses according to a comprehensive design that ensures the availability of, and provision for, adequate traffic capacity, water and sewer service, schools, public parklands and other such public facilities.
- (J) Provide regulations, standards and procedures for the administration, amendment and enforcement of this Zoning Code.

Relevant CitiPlan principle:

- Update the City's Zoning Code so it more effectively supports the current and future needs of Dayton's residents, neighborhoods, and businesses.

Staff believes the proposed text amendments are consistent with the general intent and purpose of the zoning code and with CitiPlan: The 20/20 Vision, which is the City's comprehensive plan.

**AGENCIES AND GROUPS CONTACTED:**

Priority Land Use Board Members

**DETERMINATIONS:****150.125.6, Amendments to Text**

- (A) When a proposed amendment would result in a change in the text of this Zoning Code but would not result in a change of zoning classification of any property on the zoning map, the Plan Board and City Commission shall consider the following items when formulating its recommendations:
- (1) Whether such change is consistent with the intent and purposes of this Zoning Code.

**The current zoning code took effect August 1, 2006. Since then the code has been amended as needed to correct omissions, clarify terminology and provisions, make regulations consistent from one zoning district to another, and update regulations to reflect experience to date and emerging best practices. Staff believes the proposed amendments are consistent with the intent and purpose of the Zoning Code, in particular Section 150.100.3, (B), (C), (D), and (J). The full language for these sections can be found on page 3 of this staff report.**

- (2) Which areas are most likely to be directly affected by such change and in what way they will be affected.

**The summary chart attached to this staff report lists the zoning districts affected by the proposed text amendments and the reasons the amendments are proposed. Staff believes the amendments are consistent with the intent and purpose of each zoning district.**

- (3) Whether the proposed amendment is made necessary because of changed or changing conditions in the areas of zoning districts affected or in the city generally, and, if so, the nature of such changed or changing conditions.

**The Zoning Code is a living document that requires periodic amendments to correct omissions, clarify terminology and provisions, make regulations consistent from one zoning district to another, address changing land use conditions and challenges, and update regulations to reflect experience to date and emerging best practices. It is good planning practice to keep the code up-to-date with periodic amendments so it can most effectively support the current and future needs of Dayton's residents, neighborhoods, and businesses. Staff believes the proposed amendments accomplish this objective.**

**ALTERNATIVES AND CONDITIONS:**

1. Recommend City Commission approval of the text amendments based on the Board's ability to make the determinations outlined in R.C.G.O. Section 150.126.6 (Amendments to Text).

2. Recommend City Commission approval of a modified version of the text amendments based on the Board's ability to make the determinations outlined in R.C.G.O. Section 150.126.6 (Amendments to Text).
3. Disapprove the text amendments based on the Board's inability to make the determinations outlined in R.C.G.O. Section 150.126.6 (Amendments to Text), and the case will die.

**FUTURE ACTIONS:**

City Commission public hearing and approval of an ordinance to adopt the changes.

Prepared by: Ann Schenking

**ATTACHMENTS:**

Summary Chart

Proposed Text Amendments

Summary of Land Use Board Meeting

**Summary Chart    2016 Zoning Code Text Amendments as Recommended to City Commission; Plan Board Case Z-003-2016**

<b>Number</b>	<b>Zoning Code Section</b>	<b>Zoning Code Section Number</b>	<b>Proposed Change</b>
1	Administrative Powers and Duties; Board of Zoning Appeals	150.110.4 (H)	Revise so the language in this section is consistent with Section 150.120.11.
2	Administrative Powers and Duties; Landmark Commission	150.110.5 (D) (1)	Under Preservation Officer, cross reference new Section 150.130.3(B) which gives the Preservation Officer the ability to investigate alleged violations of the Zoning Code as they relate to property designated as HD-1, HD-2, or HD-3 and take enforcement action as appropriate. Often the city's Preservation Officer and staff are made aware of violations before other city staff. This amendment would speed up the enforcement process by allowing a quicker response to alleged violations before it is too late to reverse the course of the alleged violation.
3	Site Design Review Procedures; Site Design Review	150.115.4 (B)	Remove reference to Graphics Overlay Districts -- These regulations will be expanded encompass the entirety of the CBD (Central Business District) and are therefore to be incorporated into the Sign Regulations section of the Zoning Code and not subject to Major Site Design Review.
4	Appeals and Variances; Decision of the BZA (Appeals or Variances)	150.120.7	In (A), revise so the the language in this section so it is consistent with Section 150.110.4 (F) (1). In (D), explain what constitutes an appointed member. Add new (E) to further explain appeal procedures.
5	Appeals and Variances; Decision of the BZA (Appeals or Variances); Finality of Decisions on Appeals and Variances	150.120.11	Revise so the the language in this section is consistent with Section 150.110.4(H).
6	Fees, Penalties and Enforcement; Enforcement	150.130.3	Renumber the provisions in this section to accommodate/add provisions that: <ul style="list-style-type: none"> <li>• Allow the Zoning Administrator to enforce the land use provisions of Urban Renewal Plans. This power is now implied and it makes sense to make it explicit; and</li> <li>• Allow the city's Preservation Officer the ability to investigate alleged violations of the Zoning Code as they relate to property designated as HD-1, HD-2, or HD-3 and take enforcement action as appropriate. Often the city's Preservation Officer and staff are made aware of possible violations before other city staff. This amendment would speed up the enforcement process by allowing a quicker response to alleged violations before it is too late to reverse the course of the alleged violation.</li> </ul>
7	Non-Conforming Uses, Buildings, Structures, and Lots; Non-Conforming Use of Buildings and Land	150.140.4 (A) & (B)	Clarify terminology and add additional explanation to this sub-section.
8	Definitions; Definitions	150.200.2 (38-41A)	Renumber these definitions so they are in alphabetical order and therefore easier to find.

Number	Zoning Code Section	Zoning Code Section Number	Proposed Change
9	Definitions; Definitions	150.200.2 (92)	Allow funeral homes to have accessory cremation services. Cremation is an increasingly common alternative to burial and is a service that some funeral homes wish to provide. Currently the Zoning Code makes no distinction between crematoriums as a principal, I-2 General Industrial District use and small crematoriums that are accessory to funeral homes.
10	Definitions; Definitions	150.200.2 (125)	Amend definition of corner lot to allow the Zoning Administrator additional flexibility in determining what is considered to be the front lot line. Currently, the shortest lot line is considered to be the front lot line. On lots that are close to square, the shortest lot line could be the side of the building. This amendment would allow the Zoning Administrator the discretion to determine that the front lot line is the street on which the building fronts or contains the building's street address.
11	Definitions; Definitions	150.200.2 (137A)	Revise the definition of a "Microbotler" and double the amount of square footage allowed for production and packaging to accommodate this growing business sector. Currently the limit is less than 15,000 square feet; staff recommends making the limit less than 31,000 square feet.
12	Definitions; Definitions	150.200.2 (160A)	Create a definition for "Overhead primary electric distribution line." This term is used in the proposed amendments to Section 150.800 and should be defined to create a common understanding of the term as it is used in the Zoning Code.
13	Definitions; Definitions	150.200.2 (163)	Note that the definition of a "Parking lot" does not include motor vehicle sales lots and areas used for the outdoor storage of vehicles.
14	Definitions; Definitions	150.200.2 (243A)	Define "Urban Renewal Project Area" because this term is used in proposed new section 150.300.6.
15	Definitions; Definitions	150.200.2 (245A)	Define "Utility trailer" because this term is used in proposed amendments to 150.304.5(F) and 150.330.5(B) & (C).
16	Districts Established: Map and Boundaries; Districts Established	150.300.1 (D)	Remove references to Graphics Overlay Districts GO-1 and GO-2. In 2009, the Zoning Code was amended to allow large wall graphics in certain parts of the downtown. This experiment was successful and staff recommends expanding this option to all of the CBD zoning district. If done, there is no need for the Graphics Overlay Districts. Large scale wall graphics are now commonly found in downtowns across the country. Allowing such for all of downtown would incorporate a best practice into our zoning code.
17	Districts Established: Map and Boundaries; Urban Renewal Areas	150.300.6	Give explicit ability to enforce land use/zoning provisions of urban renewal project areas and plans to the Zoning Administrator.
18	Single-Family Residential Districts; Use Regulations	Schedule 305.2	In 2009, bee keeping was permitted in this zoning district subject to certain regulations. Add bee keeping as a use to the Schedule of Permitted Uses so this permission is made clear.
19	Single-Family Residential Districts; Accessory Use Regulations	150.305.5 (F)(5)	Limit single-family residential uses to no more than five vehicles parked outside, and two-family residential uses to no more than four vehicles per dwelling unit parked outside. Currently there is no limit and the residential character of a neighborhood can be negatively impacted by an excessive number of vehicles parked outside a residence.

Number	Zoning Code Section	Zoning Code Section Number	Proposed Change
20	Downtown Districts; Permitted Uses	Schedule 320.2	In 2009, bee keeping was permitted in this zoning district subject to certain regulations. Add bee keeping as a use to the Schedule of Permitted Uses so this permission is made clear.
21	Downtown Districts; Accessory Use Regulations	150.320.8 (B)(4)(b)(i)	Correct typo in cross reference to another section of the Zoning Code.
22	Downtown Districts; Required Design Elements	Schedule 150.320.10 (D)(4)(c)	Correct typo in cross reference to another Zoning Code section and allow the option of a knee wall and/or landscaping instead of requiring both.
23	Commercial Districts; Permitted Uses	Schedule 150.325.2	In 2009, bee keeping was permitted in this zoning district subject to certain regulations. Add bee keeping as a use to the Schedule of Permitted Uses so this permission is made clear.
24	Commercial Districts; Accessory Use Regulations	150.325.8 (B)(4)(b)(i)	Correct typo in cross reference to another section of the Zoning Code.
25	Mixed-Use and Transitional Districts; Permitted Uses	Schedule 330.2	In 2009, bee keeping was permitted in this zoning district subject to certain regulations. Add bee keeping as a use to the Schedule of Permitted Uses so this permission is made clear.
26	Mixed-Use and Transitional Districts; Off-Street Parking Requirements	150.330.5(B) & (C)	Prohibit parking on unpaved areas (generally, the front yard) for single-family and two-family dwellings in the T and MX Districts and limit single-family residential uses to no more than five vehicles parked outside, and two-family residential uses to no more than four vehicles per dwelling unit parked outside. Currently there is no limit and the residential character of a neighborhood can be negatively impacted by an excessive number of vehicles parked outside a residence.
27	Mixed-Use and Transitional Districts; Accessory Use Regulations	150.330.6 (D)(4)(b)(i)	Correct typo in cross reference to another section of the Zoning Code.
28	Campus-Institutional District; Permitted Uses	Schedule 150.335.2	In 2009, bee keeping was permitted in this zoning district subject to certain regulations. Add bee keeping as a use to the Schedule of Permitted Uses so this permission is made clear.
29	Campus-Institutional District; Off-Street Parking Requirements	150.335.5 (A)	Correct typos in reference to Schedule and in Schedule itself.
30	Campus-Institutional District; Off-Street Parking Requirements	150.335.6(A)	Correct typo in cross reference to another Zoning Code section.

Number	Zoning Code Section	Zoning Code Section Number	Proposed Change
31	Industrial Districts; Permitted Uses	Schedule 150.340.2	Allow restricted parking lots as Conditional uses in the I-2 and BP zoning districts. They are already Conditional uses in the I-1 zoning district. Staff believes it makes sense to allow this option in I-2 and BP zoning districts. In 2009, bee keeping was permitted in this zoning district subject to certain regulations. Add bee keeping as a use to the Schedule of Permitted Uses so this permission is made clear.
32	Historic Overlay Districts; Purposes	150.345.1 (E)	The Landmark Commission was created by Section 44.50 of the R.C.G.O., not the Zoning Code, so this sentence will be adjusted accordingly. Change term "Historic Preservation Officer" to "Preservation Officer" to be consistent with the way the term is used throughout the Zoning Code.
33	Historic Overlay Districts; Designation of Historic District	150.345.2 (C) and (D)	In practice, staff considers any HD-1, HD-2 and HD-3 property to be on the Dayton Register of Historic Landmark Properties, not just HD-3 properties as the Zoning Code states. Amend language in this section of the Zoning Code to reflect staff practice.
34	Historic Overlay Districts; Nomination of Historic District	150.345.3	As standard procedure, nominations from the Landmark Commission for HD designations are presented to the Plan Board which is then asked to initiate the zoning case for the HD designation. Add language to the zoning code to note that this is the procedure.
35	Historic Overlay Districts; Boundaries	150.345.4 (C)	In practice, staff considers any HD-1, HD-2 and HD-3 property to be on the Dayton Register of Historic Landmark Properties, not just HD-3 properties as the Zoning Code states. Amend language in this section of the Zoning Code to reflect staff practice.
36	Historic Overlay Districts; Activities Governed	150.345.5 (C)	In practice, staff considers any HD-1, HD-2 and HD-3 property to be on the Dayton Register of Historic Landmark Properties, not just HD-3 properties as the Zoning Code states. Amend language in this section of the Zoning Code to reflect staff practice.
37	Historic Overlay Districts; Class of Architectural Modifications	150.345.7 (A) (4)	Add "Wall Mural" to the items which are considered Major Modifications to historic district HD-1 and HD-2 properties and must go before the Landmark Commission for approval.
38	Historic Overlay Districts; Signs	150.345.14 (B) (4)	Add language noting that wall murals are not considered short-term or temporary signs in historic districts.
39	Historic Overlay Districts; Review by Landmark Commission	150.345.20 (B) (1)	Remove antiquated requirement that Landmark Commission meeting notices are posted in the Planning and Community Development Department. Currently Landmark Commission agendas are posted on the City's web site and emailed to a distribution list maintained by the Secretary to the Landmark Commission. Add requirement that the owner of the property which is the subject of a Landmark Commission case is notified of the applicable Landmark Commission meeting.
40	Historic Overlay Districts; Appeal of Landmark Commission Decision	150.345.21	Make the language in this section consistent with the language in Section 150.120.5.
41	Park/Open Space District; Purposes	150.365.1(D)	Expand the purposes of and uses allowed in the Park/Open Space zoning district to better reflect how this zoning district is applied and could be applied.
42	Park/Open Space District; Permitted Uses	Schedule 150.365.2	In the Park/Open Space District, allow residential uses that existed prior to August 1, 2006 as permitted uses, outdoor sports facilities as a Conditional use, and church/religious assembly as a Permitted use. These uses are not at odds with the revisions proposed to Section 150.365.1(D). In 2009, bee keeping was permitted in this zoning district subject to certain regulations. Add bee keeping as a use to the Schedule of Permitted Uses so this permission is made clear.

Number	Zoning Code Section	Zoning Code Section Number	Proposed Change
43	Graphics Overlay Districts	150.375	Delete this entire section of the Zoning Code. It is proposed that these regulations will be expanded to encompass the entirety of the Downtown zoning districts and would therefore be incorporated into the Sign Regulations section of the Zoning Code.
44	Supplemental District Regulations; Bee Keeping	150.420.1	In 2009, bee keeping was permitted in the city with no known problems. Expand the opportunities for bee keeping in the city.
45	Supplemental District Regulations; Performance Standards	150.420.2 (G)	Add domestic animal smells to odor performance standard to allow Housing Inspection staff the ability to better address this issue.
46	Supplemental District Regulations; Vacation of Rights-of-Way	150.445 (C)	For public way vacations, allow the Plan Board Secretary to grant one twelve (12) month extension to the validity period for the conditions established by the Plan Board provided the Board is notified of the extension.
47	Conditional Use and Specific Use Regulations; Finality of Decisions	150.558	Note that the City of Dayton may seek judicial review of Conditional Use decisions by the BZA to make this section consistent with Section 150.110.4(H) and Section 150.120.11.
48	Conditional Use and Specific Use Regulations; Crematorium; Incinerator	150.565.15	Exempt crematoriums which are accessory to funeral homes from the regulations for large scale crematoriums/incinerators. Cremation is an increasingly common alternative to burial and is a service that some funeral homes wish to provide. Currently the Zoning Code makes no distinction between crematoriums as a principal, I-2 General Industrial District use and small crematoriums that are accessory to funeral homes.
49	Conditional Use and Specific Use Regulations; Day Care Center, Adult or Child	150.565.17	Remove the 22,000 square foot minimum lot size requirement. This requirement unnecessarily reduces the number of empty commercial buildings that meet state licensing requirements and can be repurposed for day care centers.
50	Conditional Use and Specific Use Regulations; Family Day Care Home for Seven to Twelve Children	150.565.22 (A)	Remove requirement for paved off-street drop-off and pick-up areas so the residential character of the residence is not permanently compromised by paving the yard for parking. Add requirement that drop-off and pick-up procedures are submitted as part of the zoning permit application.
51	Conditional Use and Specific Use Regulations; Motor Vehicle Sales and Rental (Including Boats)	150.565.37 (G)	Note that parking lot landscape islands are not required for motor vehicle sale lots or areas used for outdoor storage of vehicles.
52	Conditional Use and Specific Use Regulations; Parking Lot, Restricted	150.565.42 (E)	Correct cross reference to another Zoning Code section.
53	Conditional Use and Specific Use Regulations; Restaurant, Outdoor Dining	150.565.53 (A)(4)	Change term "café activity" to "outdoor dining" to make the terms more consistent within this section.

Number	Zoning Code Section	Zoning Code Section Number	Proposed Change
54	Conditional Use and Specific Use Regulations; Wall Murals	150.565.80.5	Increase the opportunities for wall murals to be painted on buildings, including those that are community eyesores and targets for graffiti. Note that wall murals in HD-1 and HD-2 historic districts must comply with our historic district regulations.
55	Regulations for Wireless Telecommunications Facilities; Standards Applicable to All Wireless Telecommunications Facilities	150.600.7 (J)	Remove an illumination requirement that conflicts with Federal Aviation Administration (FAA) requirements.
56	Off-Street Parking & Loading Regulations; Units of Measure	150.700.3 (E)	Remove reference which defeats the purpose of encouraging and allowing shared parking arrangements. We want to encourage and allow shared parking.
57	Off-Street Parking & Loading Regulations; Parking for Non-Commercial Uses in Commercial, Mixed-Use Hub and Transitional Districts	Schedule 150.700.7	Add parking requirements for membership clubs that mirror those for assembly halls; currently there are no parking requirements for membership clubs.
58	Landscaping & Screening Regulations; Purpose	150.800.1	In the purpose section note the importance to the city of a diverse and healthy tree canopy.
59	Landscaping & Screening Regulations; Landscaping Along Street Frontages	150.800.5	Among the changes proposed are the following: Remove references to suggested tree species; allow the Director of Public Works to add to the prohibited trees referenced in 150.800.7; discourage the planting of trees underneath overhead primary electric distribution lines because utility line clearance procedures permanently damage them and shorten their lifespans; allow more flexibility in the caliper and height of trees to be planted so the trees planted are more likely to thrive instead of survive; and subject to certain exceptions, help protect the city's tree canopy from future tree blights by requiring a diversity of tree species when eight or more trees are to be planted.
60	Landscaping & Screening Regulations; Maintenance and Removal of Trees Within the Street Right-of-Way	150.800.6	Remove references to the Division of Parks and Forestry which does not exist as a separate division anymore. Replace references to Division of Parks and Forestry with "Department of Public Works" which is the department in which the city's forestry work is housed.
61	Landscaping & Screening Regulations; Recommended Tree Species and Quality of Plant Materials	150.800.7	Rename this section and revise it to remove lists of recommended and unacceptable tree species because these lists are too limiting -- new types of trees come on line all the time that are worthy of planting and new diseases and pests that attack trees are being discovered with more frequency. Instead add a list of prohibited tree species (species the city's Forestry staff do not want planted because of their known susceptibility to disease or the messes they create on sidewalks and streets) and add note that the Director of Public Works may make additions to this list as additional trees species are found to be susceptible to disease or unsuited for planting in street rights-of-way.

Number	Zoning Code Section	Zoning Code Section Number	Proposed Change
62	Landscaping & Screening Regulations; Screening	150.800.8 (D)(1)	Correct typo in this sub-section.
63	Landscaping & Screening Regulations; Screening and Landscaping of Parking Lots	150.800.9	Note that parking lot landscape islands are not required for motor vehicle sale lots or areas used for outdoor storage of vehicles.
64	Sign Regulations; Definitions	150.900.2 (DD), (EE), new (HH)	Add a definition for wallscape and reference that definition in (DD), (EE), and (HH) to accommodate staff proposal that large wall graphics are permitted in the CBD zoning district.
65	Sign Regulations; Signs in Downtown Districts	150.900.6 (A) and (B)	In (A), Schedule 150.900.6, increase the sign area allowed for a building sign and add wallscape to the schedule. In (B)(2), delete the 200 square foot maximum.
66	Sign Regulations; Signs in the Well Head Operation (WO) District	150.900.9.5	Add sign regulations for the WO district; currently there are none.
67	Sign Regulations; Supplemental Sign Standards	150.900.13	Add (E) with provisions for wallscape to accommodate staff proposal that large wall graphics are permitted in the CBD zoning district.
68	Sign Regulations; Regulations for Non-Conforming Signs	150.900.18 (B)	Add additional explanation to this sub-section.
69	Off-Premise Sign Regulations; Non-Conforming Off-Premise Signs	150.925.5	Emphasize provisions.

Proposed Zoning Code Text Change Language for Case Z-003-2016

Numbers in left margins correspond to numbers in the summary chart.  
Proposed deletions are in ~~striethrough~~ and proposed additions are in **bold** font.

Section 150.110  
Administrative Powers and Duties

150.110.4 Board of Zoning Appeals

#1 → (H) Finality of Decisions of the Board of Zoning Appeals. A decision by the Board of Zoning Appeals shall be final subject only to judicial review in accordance with law. If judicial review is sought, such appeal shall be filed within thirty (30) days of the decision by the Board of Zoning Appeals. ~~All decisions of the BZA, shall be final except as subject to court review.~~ Unless prohibited by law, the City of Dayton may seek judicial review of decisions by the BZA. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09; amend Ord. 31142-11, passed 12-21-11; amend Ord. 31283-13, passed 12-18-13)

150.110.5 Landmark Commission

For the purposes of this Zoning Code, the Landmark Commission shall have the powers and duties specified in this sub-section and are organized as follows:

(D) Organization of the Landmark Commission. The Landmark Commission shall have the following:

#2 → (1) Preservation Officer. The Director of Planning and Community Development or his designee shall act as the Preservation Officer and shall approve, modify, or disapprove minor modifications and those major modifications specifically assigned to the Preservation Officer by resolution of the Landmarks Commission; shall be responsible for complying with all applicable Federal regulations as outlined in the Historic Preservation Act, as amended; shall coordinate with the State Historic Preservation Office on issues pertaining to the City's Certified Local Government status; shall be responsible for public outreach, promotion and education for historic preservation; shall be responsible for formation of historic preservation policy; ~~and~~ shall perform such other duties provided by this Section or requested by the Landmark Commission; and shall enforce the provisions of this Zoning Code as outlined in Section 150.130.3.

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**Section 150.115**  
**Site Design Review Procedures**

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**150.115.4 Site Design Review**

(B) Major Site Design Review. The Plan Board shall have decision-making authority for Major Site Design Plan Review as provided for:

#3 →

~~(1) In Section 150.375, Graphics Overlay Districts;~~

(2) In Section 150.600, Regulations for Wireless Telecommunication Facilities;

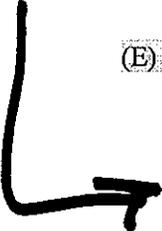
(3) In Section 150.925, Off-Premise Sign Regulations; and

(4) In any other provision of this Zoning Code.

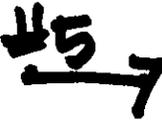
Section 150.120  
Appeals and Variances

150.120.7 Decision of the BZA (Appeals or Variances)

The procedures for rendering a decision on appeals or variances are as follows:

- (A)  Where it is alleged there is an error in any order, requirement, decision, interpretation or determination (all hereinafter referred to collectively as "decision") made under this Zoning Code by the Zoning Administrator, except for decisions regarding site design plans that are to be appealed to the Plan Board, the Board of Zoning Appeals may reverse or affirm, wholly or in part, the decision being appealed. The BZA may affirm, reverse or remand, in whole or part, a denial by the Landmark Commission as regulated by Section 150.345.21. In making its decision to reverse or affirm, the BZA and it may direct the issuance of a permit or certificate.
- (D)  The concurring vote of a majority of the appointed members of the BZA shall be necessary to reverse or modify any decision of the Zoning Administrator or to grant a variance. Appointed members shall be considered as those complying with Section 150.110.4 (A).
- (E)  In the instance of an appeal where it is alleged there is error in any order, requirement, decision, interpretation or determination (all hereinafter referred to collectively as "decision") made under the Zoning Code by the Zoning Administrator, except for decisions regarding site design plans that are to be appealed to the Plan Board, the concurring vote of a majority of the appointed members of the BZA shall be necessary to reverse or modify any decision of the Zoning Administrator. Appointed members shall be considered as those complying with Section 150.110.4 (A). Additionally, in the case of such an appeal, in order to overturn or modify the decision of the Zoning Administrator, the appellant must demonstrate to the BZA that there is clear and convincing evidence indicating that the Zoning Administrator's decision was made in error.

150.120.11 Finality of Decisions on Appeals and Variances

 A decision by the Board of Zoning Appeals granting or denying approval of an appeal or variance shall be final subject only to judicial review in accordance with law. If judicial review is sought, such appeal shall be filed within thirty (30) days of the decision by the Board of Zoning Appeals. Unless prohibited by law, the City of Dayton may seek judicial review of decisions by the BZA. (amend Ord. 30893-09, passed 7-15-09)

Section 150.130  
Fees, Penalties and Enforcement

150.130.3 Enforcement

(A) The powers and duties of the Zoning Administrator in enforcing the provisions of this Zoning Code include, but are not limited to, the following:

- (1) Investigate, with or without a complaint, alleged violations of this Zoning Code and/or land use plans in urban renewal project areas;
- (2) Issue notices and orders and take other administrative actions as authorized to enforce the provisions of this Zoning Code and/or land use plans in urban renewal project areas;
- (3) Deny applications for permits, certificates and approval of plans in violation of this Zoning Code and/or land use plans in urban renewal project areas, and revoke permits, certificates and plans approved for a change in use or occupancy of a property or structure in violation of this Zoning Code and/or land use plans in urban renewal project areas;
- (4) Assess civil penalties and file misdemeanor complaints and minor misdemeanor citations for violations of this Zoning Code and/or land use plans in urban renewal project areas; and
- (5) Appear and testify in judicial and quasi-judicial proceedings as required in enforcing this Zoning Code and/or land use plans in urban renewal project areas. (Ord. 30515-05, passed 12-28-05; amend Ord. 30594-06, passed 8-23-06)

(B) The powers and duties of the Preservation Officer in enforcing the provisions of this Zoning Code include, but are not limited to, the following:

- (1) Investigate, with or without a complaint, alleged violations of this Zoning Code as they relate to property designated as HD-1, HD-2, or HD-3; and
- (2) Issue notices and orders and take other administrative actions as authorized to enforce the provisions of this Zoning Code as they relate to property designated as HD-1, HD-2, or HD-3.
- (3) Appear and testify in judicial and quasi-judicial proceedings as required in enforcing this Zoning Code and/or land use plans in urban renewal project areas.

#6



Section 150.140  
Non-Conforming Uses, Buildings, Structures, and Lots

150.140.4 Non-Conforming Use of Buildings and Land

A non-conforming use may continue so long as it remains otherwise lawful and does not constitute a public nuisance, subject to the following provisions:

(A) Maintenance.



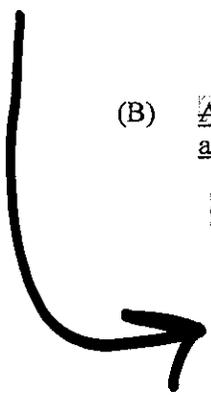
(1) Ordinary Routine Maintenance. Work may be done on ordinary routine maintenance and repairs, or on repair or replacement of interior walls, fixtures, wiring or plumbing.

(2) Buildings devoted to Residential Uses in an Industrial District. Buildings devoted to a non-conforming residential use in an Industrial District may be maintained, repaired, improved, modernized or enlarged. However, no increase in the number of units shall be permitted.

(B) Alteration Improvement or Reconstruction of a Building/Structure Occupied by a Non-Conforming Use.

(1) No building or structure occupied by a non-conforming use shall be improved or reconstructed except for routine maintenance or except when the use is changed to a use permitted in the district in which it is located or upon prior approval of the Board of Zoning Appeals, and then only if the cumulative cost of the alteration, reconstruction, or improvement does not exceed 50% of the building's and/or structure's replacement value. Determination of said replacement value shall not include factors such as geographic location or non-conforming status.

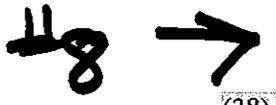
#7



Section 150.200
Definitions

150.200.2 Definitions.

(41) (38) Co-location. The use of a wireless telecommunications facility by more than one wireless telecommunications provider or by one provider for more than one type of telecommunication technology.



(38) (39) Commercial motor vehicle. Any motor vehicle designed or used to transport persons, property, merchandise or freight primarily for-profit as defined in Ohio Revised Code Section 4506.01 (E).



(39) (40) Common area. Any land area and/or facilities that is held in common ownership by the residents through a homeowners' association, community association or other legal entity, or which is held by the individual members of a condominium association as tenants-in-common.



(40) (41) Community center. A building or group of buildings operated by a public or nonprofit group or agency and used for recreational, social, educational or cultural activities.



(40A) (41A) Community garden. The use of land for the purpose(s) of harvesting, farming, gardening, beekeeping, or composting that is on a property of less than one acre and does not include the keeping of livestock.



(92) Funeral home. A building or part thereof used for human funeral services. Such building may contain space and facilities for: (a) embalming and the performance of other services used in preparation of the dead for burial; (b) the performance of autopsies and other surgical procedures; (c) the storage of caskets, funeral urns, and other related funeral supplies; and (d) the storage of funeral vehicles, and (e) accessory but shall not include facilities for cremation. Where a funeral home is permitted, a funeral chapel shall also be permitted.



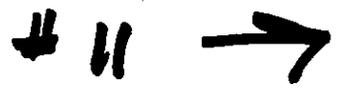
(125) Lot line. The boundary line defining the limits of the lot. Lot line is synonymous with "property line."

(a) Lot line, front: The line separating an interior lot from the street right-of-way on which the lot fronts.

On a corner lot, the street right-of-way with the least amount of street frontage shall be the front lot line. If the dimensions of a corner lot are within twenty (20) percent or less of being equal, the Zoning Administrator may establish either street frontage as the front lot line. On corner lots with an existing principal building, the Zoning Administrator may establish the line that faces the building entrance as the front lot line.



(137A) Microbottler. A facility for the production and packaging of beverages for distribution, retail and/or wholesale, on or off premise. The production and packaging shall be limited to a total area of less than 15,000 31,000 square feet. This term shall not include a "Brewpub" or "Restaurant, indoor dining."



#12 →

(160A) Overhead primary electric distribution line. A non-insulated electric power line that supplies the higher voltage to a transformer that provides a lower voltage for a customer's service lines. This line is found at the tops of power poles, either on a cross arm, or a single insulated pin. Secondary (service-voltage current) power lines, telephone, cable television (CATV) and Greater Dayton Regional Transit Authority (GDRTA) lines are excluded from this category.

#13 →

(163) Parking lot. An outdoor paved area made up of marked parking spaces where motor vehicles may be stored for the purpose of temporary off-street parking. Also known as a parking area. This term does not include motor vehicle sales lots and areas used for the outdoor storage of vehicles.

#14 →

(243A) Urban Renewal Project Area. A geographic area defined in an urban renewal plan pursuant to Chapter 45 of the R.C.G.O.

#15 →

(245A) Utility trailer. A small non-motorized vehicle which is generally pulled by a motorized vehicle and features an open-top or enclosed cargo area and is used for hauling.

**Section 150.300**  
**Districts Established: Map and Boundaries**

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**150.300.1 Districts Established**

For the purpose of this Zoning Code, the City of Dayton is hereby divided into the following zoning districts:

(D) Other Districts

#16



~~GO 1 Graphics Overlay District~~  
~~GO 2 Graphics Overlay District~~

**150.300.6 Urban Renewal Project Areas and Land Use Regulations**

#17  
→

**Urban renewal project areas are shown on the official zoning map. Urban renewal plans associated with such project areas contain Land Use Plans. When such Land Use Plans conflict with the provisions of this Zoning Code, the Land Use Plans shall prevail.**

**Section 150.305  
Single-Family Residential Districts**

<b>Schedule 150.305.2 Permitted Uses in Single-Family Residential Districts</b>					
	SR-1	SR-2	ER-3	ER-4	MR-5
	Suburban SF Residential	Suburban SF Residential	Eclectic SF Residential	Eclectic SF Residential	Mature SF Residential
<b>(9) Other</b>					
<b>(a) Bee Keeping</b>	P <sup>14</sup>	P <sup>14</sup>	P <sup>14</sup>	P <sup>14</sup>	P <sup>14</sup>

<sup>14</sup> As regulated by Section 150.420.1  
P = Use permitted by right; PD = Permitted as part of a Planned Development; P\* = Use permitted by right as further regulated by Section 150.500, Conditional Uses and Specific Use Regulations; C = Conditional use; A = Accessory use;  
Blank cell = Use not permitted in district

#18 →

**150.305.5 Accessory Use Regulations**

Accessory uses, buildings and structures permitted in single-family residential districts shall conform to the location, coverage, area, and maintenance standards contained in this Section.

(F) Additional Regulations for Vehicles.

- (4) The parking or storing of vehicles is prohibited in the established lawn areas. If a vehicle and/or utility trailer is parked or stored outside, it shall be parked on an impervious surface, such as asphalt or concrete. The area surrounding the parked or stored vehicle and/or utility trailer shall be maintained pursuant to all applicable City ordinances, codes, standards, and regulations.
- (5) For single-family detached dwellings, no more than five (5) vehicles, including recreational vehicles/equipment and/or utility trailers, shall be parked or stored outside. For two-family dwellings, each dwelling unit shall have no more than four (4) vehicles, including recreational vehicles/equipment and/or utility trailers, parked or stored outside.

#19 →  
↙

**Section 150.320  
Downtown Districts**

#20  
→

Schedule 150.320.2 PERMITTED USES IN DOWNTOWN DISTRICTS		
	UBD	CBD
	Urban Business District	Central Business District
(12) Other		
(a) Bee Keeping	P <sup>9</sup>	P <sup>9</sup>
<sup>9</sup> As regulated by Section 150.420.I.		
P = Use permitted by right; P* = Use permitted by right as further regulated by Section 150.500, Conditional Use and Specific Use Regulations; C = Conditional use; A = Accessory use; Blank cell = Use not permitted in district.		

**150.320.8 Accessory Use Regulations**

Accessory uses permitted in any Downtown District shall conform to the regulations of this Section as well as any other applicable Sections.

(B) Fences and Walls. Fences and walls may be erected in any Downtown District in compliance with the requirements set forth in below

(4) Screening and Landscaping.

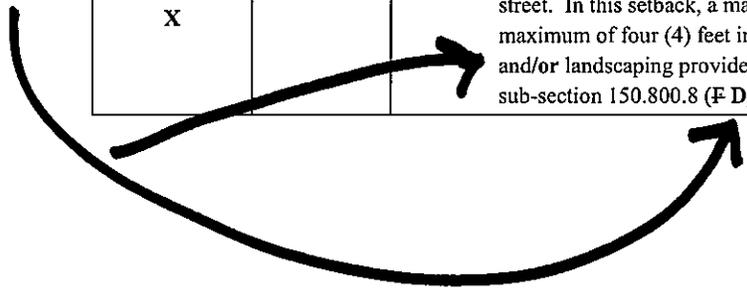
(b) All fences, other than ornamental fences, when visible from public streets, shall be visually softened and reasonably screened from the street with appropriate landscaping as follows:

#21

(i) Fences that are located within required building and parking setbacks shall be considered appropriately screened when the landscaping required in sub-section 150.800.6 5, Landscaping Requirements Along Street Frontages, is planted within five (5) feet of the fence and between the fence and the property line.

Schedule 150.320.10 Pedestrian Oriented Design Principles		
POD-1	POD-2	Design Principle
		(4) <u>Parking</u>
X		(c) Per schedule 150.320.5, surface parking lots shall be setback ten (10) feet from any property line that is adjacent to a public street. In this setback, a masonry knee wall, which is a maximum of four (4) feet in height, shall be constructed and/or landscaping provided, which meets the requirements in sub-section 150.800.8 (F D)(1)(a).

#22



**Section 150.325  
Commercial Districts**

**Schedule 150.325.2  
PERMITTED USES IN COMMERCIAL DISTRICTS**

#23  
L

Land Use Category	MNC	ENC	SNC	MGC	EGC	SGC
	Mature Neighborhood Commercial	Eclectic Neighborhood Commercial	Suburban Neighborhood Commercial	Mature General Commercial	Eclectic General Commercial	Suburban General Commercial
(11) Other						
(a) Bee Keeping	P <sup>S</sup>	P <sup>S</sup>	P <sup>S</sup>	P <sup>S</sup>	P <sup>S</sup>	P <sup>S</sup>
As regulated by Section 150.420.1.						
P= Use permitted by right; P* = Use permitted by right as further regulated by Section 150.500, Conditional Use and Specific Use Regulations; C= Conditional Use; A=Accessory Use; Blank Cell = Use not permitted						

**150.325.8 Accessory Use Regulations.**

Accessory uses permitted in any Commercial District shall conform to the regulations in this Section as well as any other applicable Sections.

(B) Fences and Walls. Fences and walls may be erected in any Commercial District in compliance with the requirements set forth below.

(4) Screening and Landscaping.

(b) All fences, other than ornamental fences, when visible from public streets, shall be visually softened and reasonably screened from the street with appropriate landscaping as follows:

#24

(i) Fences that are located within required building and parking setbacks shall be considered appropriately screened when the landscaping required in sub-section 150.800.6-5, Landscaping Requirements Along Street Frontages is planted within five (5) feet of the fence and between the fence and the property line.

**Section 150.330  
Mixed-Use and Transitional Districts**

Schedule 150.330.2 PERMITTED USES IN THE MIXED-USE AND TRANSITIONAL DISTRICTS		
	T	MX
	Transitional District	Mixed-Use Hub
(13) Other		
(a) Bee Keeping	P <sup>6</sup>	P <sup>6</sup>
<sup>6</sup> As regulated by Section 150.420.1.  P=Use permitted by right; P* = Use permitted by right as further regulated by Section 150.500, Conditional Use and Specific Use Regulations; C= Conditional Use; A=Accessory Use; Blank Cell = Use not permitted		

25 ↗

**150.330.5 Off-Street Parking Requirements**

Off-street parking and loading areas shall comply with the regulations in Section 150.700, Off-Street Parking and Loading Regulations, and to the parking regulations set forth below.

- (B) Parking Location. Off-street parking lots shall be located at the rear or side of the principal building. The Plan Board, the Board of Zoning Appeals, or the Zoning Administrator, whichever is applicable according to the procedures in Section 150.115, may grant an exception to this requirement where necessary due to the shallow depth of the parcel, the location of mature trees or other significant environmental features, the location of historical buildings/structures, the proximity of residential uses, or other similar circumstances. If an exception is granted and off-street parking spaces are adjacent to a public street, a three (3) to four (4) foot masonry knee wall may be required in addition to Section 150.800.9 (B), Screening and Section 150.800.5, Landscaping Requirements Along Street Frontages.

26 →

**If a vehicle and/or utility trailer is parked or stored outside, it shall be parked on an impervious surface, such as asphalt or concrete. The area surrounding the parked or stored vehicle and/or utility trailer shall be maintained pursuant to all applicable City ordinances, codes, standards, and regulations.**

- (C) Off-Street Parking Areas. Off-street parking areas shall conform to the regulations in Section 150.800.9, Screening and Landscaping of Parking Lots. **For single-family detached dwellings, no more than five (5) vehicles, including recreational vehicles/equipment and/or utility trailers, shall be parked or stored outside. For two-family dwellings, each dwelling unit shall have no more than four (4) vehicles, including recreational vehicles/equipment and/or utility trailers, parked or stored outside.**

**150.330.6 Accessory Use Regulations**

- (D) Fences. All fences shall comply with the regulations set forth below:
  - (4) Screening and Landscaping.

(b) All fences, other than ornamental fences, when visible from public streets, shall be visually softened and reasonably screened from the street with appropriate landscaping as follows:

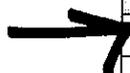
#27

(i) Fences that are located within required building and-parking setbacks shall be considered appropriately screened when the landscaping required in sub-section 150.800 ~~6~~ **5**, Landscaping Requirements Along Street Frontages, is planted within five (5) feet of the fence and between the fence and the property line.

**Section 150.335  
Campus-Institutional District**

Schedule 150.335.2 Permitted Uses in Campus-Institutional Districts		
	CI	
	Campus-Institutional	
	When located more than 150 feet from the Campus- Institutional Zoning District Boundary <sup>1,2</sup>	When located 150 feet or less from the Campus- Institutional Zoning District Boundary <sup>2</sup>
(10) Other		
(a) Bee Keeping	P <sup>9</sup>	P <sup>9</sup>
<p><b>Notes to Schedule 150.335.2:</b>  <sup>9</sup> As regulated by Section 150.420.1.                      P = Use permitted by right; P* = Use permitted by right as further regulated by Section 150.500,                      Conditional Use and Specific Use Regulations, C = Conditional Use; A = Accessory Use;                      Blank Cell = Use not permitted</p>		

#28

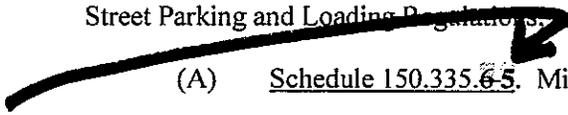


**150.335.5 Off-Street Parking Requirements**

Off-street parking and loading areas shall comply with the regulations in Section 150.700, Off-Street Parking and Loading Regulations, and to the parking regulations set forth below:

- (A) Schedule 150.335.6-5. Minimum Parking Setbacks.

#29



#29

Schedule 150.335.6-5 Minimum Parking Setbacks for Surface Parking lots		
	When more than 150 feet from the Campus-Institutional Zoning District Boundary	When 150 feet or less from the Campus-Institutional Zoning District Boundary
(1) Setback from public street rights-of-way	10 feet <sup>2</sup>	<sup>1,2</sup>
(2) Setback from an alley	3 feet	3 feet
(3) Setback from abutting residential district boundary	25 feet	25 feet <sup>2</sup>
(4) Setback from all other lot lines		15 feet <sup>2</sup>
<p><b>Notes to Schedule 150.335.6 5:</b></p> <p><sup>1</sup> This setback shall be specifically reviewed during the conditional use process according to the principles in sub-section 150.335.9, Development and Design Guidelines.</p> <p><sup>2</sup> As further regulated by Section 150.335.9 (C), Design of Parking Areas for Permitted &amp; Conditional Uses</p>		

**150.335.6 Accessory Use Regulations**

- (A) Accessory Buildings. Accessory buildings shall conform to all lot and setback regulations for principal buildings and shall be reviewed according to the site design plan review procedures in Section 150.115, except as provided for in Section 150.335.7 6 (E).

#30

**Section 150.340  
Industrial Districts**

Schedule 150.340.2 PERMITTED USES IN INDUSTRIAL DISTRICTS			
	I-1	I-2	BP
	Light Industrial	General Industrial	Business Park
(7) Motor Vehicle/Transportation			
(g) Parking lot, restricted	C	C	C
(10) Other			
(b) Bee Keeping	P <sup>7</sup>	P <sup>7</sup>	P <sup>7</sup>
<p><u>As regulated by Section 150.420.1</u></p> <p>P = Use permitted by right; P* = Use permitted by right as further regulated by Section 150.500, Conditional Use and Specific Use Regulations; C = Conditional use; A = Accessory use Blank cell = Use not permitted in district</p>			

#31 →  
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Section 150.345  
Historic Overlay Districts

150.345.1 Purposes.

The public interest calls for the preservation and protection of significant historical, architectural and archeological resources from Dayton's and America's histories that lie within our city. Buildings and places that tell us of the presence of our forebears add meaning and livability to our city as do handsome residential areas and orderly business districts. To accomplish this, it is necessary to provide a method whereby, with careful consideration for the rights of private property and only after thorough analysis of the objectives to be achieved, certain public controls are required for changes made to meaningful buildings or neighborhoods.

Therefore, historic overlay districts (HD-1, HD-2, HD-3) and their regulations are established in order to achieve these purposes:

#32 → (E) To this end, this Section authorizes the adoption of overlay historic districts and creates a ~~Landmarks Commission~~, a Secretary to the Landmark Commission and an ~~Historic~~ a Preservation Officer to review and approve architectural modifications that affect the historic quality of such properties and districts. (Ord. 30515-05, passed 12-28-05)

150.345.2 Designation of Historic District.

The Landmark Commission shall recommend to the City Plan Board the adoption or modification of a historic district overlay on all eligible areas in accordance with Section 150.125, Amendments. The boundaries of each such district shall be indicated on the official zoning map.

#33 → (C) The HD-3 Historic Designation Overlay (HD-3) is an overlay district for properties that have been determined by the Landmark Commission, in accordance with sub-section 150.345.4 (C), be historically significant and by doing so, has determined that the loss of these properties is an irreversible act worthy of review. ~~These properties collectively are called the Dayton Register of Historic Landmark Properties.~~

↳ (D) All properties designated as HD-1, HD-2, or HD-3 are collectively called the Dayton Register of Historic Landmark Properties. (Ord. 30515-05, passed 12-28-05)

150.345.3 Nomination of Historic District.

(A) HD-1 Historic District Overlay.

#34 → (3) The Landmark Commission shall determine the eligibility of the proposed area. If the area is eligible and the petition is valid, the Landmark Commission may ~~ask the Plan Board to initiate~~ propose an amendment to the official zoning map, which includes controls on particular parcels, for all or part of the original proposed area in accordance with Section 150.125, Amendments. ~~The Plan Board may choose to initiate the amendment as proposed, initiate the amendment with modifications, or decline to initiate the amendment.~~

(B) HD-2 Historic District Overlay.

(4) The Landmark Commission shall determine the eligibility of the proposed area. If the area is eligible and the petition is valid, the Landmark Commission may ask the Plan Board to initiate propose an amendment to the official zoning map, which includes controls on particular parcels, for all or part of the original proposed area in accordance with Section 150.125, Amendments. The Plan Board may choose to initiate the amendment as proposed, initiate the amendment with modifications, or decline to initiate the amendment.

# 34 →

(C) ~~HD-3, Dayton Register of Historic Landmark Properties Overlay~~ **Historic District Overlay.**

(1) Any property eligible under this Section may be nominated for inclusion on the Dayton Register of Historic Landmark Properties (hereafter referred to as the "Dayton Register") a HD-3 Historic District Overlay by the owner of the property or by the Landmark Commission. The nomination shall be in a form prescribed by the Landmark Commission and filed with the Clerk of the City Commission.

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(2) The Clerk shall transmit the nomination to the Landmark Commission.

↓

(3) Any single property determined to be eligible for or listed on the National Register of Historic Places may be included on the Dayton Register nominated for a HD-3 Historic District Overlay.

↓

(4) The Landmark Commission shall determine the eligibility of the proposed properties. If the properties are eligible, the Landmark Commission may ask the Plan Board to initiate propose an amendment to the official zoning map, which includes controls on particular parcels, for all or part of the original proposed area in accordance with Section 150.125, Amendments. The Plan Board may choose to initiate the amendment as proposed, initiate the amendment with modifications, or decline to initiate the amendment. (Ord. 30515-05, passed 12-28-05)

150.345.4 Boundaries.

(C) ~~HD-3, Dayton Register of Historic Landmark Properties Overlay~~ **Historic District Overlay.** Individual properties with a HD-3 Historic District Overlay The Dayton Register of Historic Landmark Properties Overlay is a listing of individual properties, which have been determined to have historical significance by the Landmark Commission. When a property is designated as HD-3 is listed on the Dayton Register, the designation shall may apply to the entire parcel on which the property is located. (Ord. 30515-05, passed 12-28-05)

# 35 →

150.345.5 Activities Governed.

(C) ~~HD-3, Dayton Register of Historic Landmark Properties Overlay~~ **Historic District Overlay.** Any request for a demolition permit for a property listed on the Dayton Register will require a Certificate of Appropriateness from the Landmark Commission. The Landmark Commission will review the request in accordance with sub-section 150.345.9, Removal of a Structure. (Ord. 30515-05, passed 12-28-05)

# 36 →

150.345.7 Class of Architectural Modifications.

- (A) Major Modifications. Major modifications governed by the Architectural Design Standards include any exterior alterations requiring a city permit or any of the following activities:

# 37

- (4) Installation of new signage or a wall mural.

150.345.14 Signs.

All signs located in a historic district shall comply with the sign regulations of the underlying zoning district as well as the regulations of this Section.

- (B) Permitted Signs. The following regulations shall apply to signs permitted in historic districts.

# 38

- (4) Short-term or temporary signs are permitted and no Certificate of Appropriateness is required, provided, they are only displayed for a maximum of seven consecutive days in each 90 day period, have a maximum size of 20 inches by 30 inches and only one such sign may be displayed. Wall murals shall not be considered short-term or temporary signs.

150.345.20 Review by Landmark Commission.

- (B) The Landmark Commission's review shall be by means of a hearing.

# 39

- (1) The Secretary of the Landmark Commission shall notify, in writing, the applicant, as well as the owner(s) of the subject property, of the time and place of the hearing not less than seven (7) days before the date of the hearing. Notice of the hearing shall also be posted in the office of the Department of Planning for public view. No other notice shall be required.

150.345.21 Appeal of Landmark Commission Decision

If the application is denied by the Landmark Commission, the applicant or any interested party of record may request a hearing before the Board of Zoning Appeals within fourteen (14) days following the date of decision in the manner provided for in Section 150.120, Appeals and Variances. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the BZA, after notice of appeal has been filed with him/her, that by reason of facts stated in the certificate a stay would, in his/her opinion, cause imminent peril to life or property. In such case, the proceedings shall not be stayed.

Using only the standards set forth in this Section 150.345, the Board of Zoning Appeals may affirm, reverse, or remand, in whole or in part, the decision of the Landmark Commission, except that a decision to reverse shall require the concurrence of a majority of the appointed members and shall be based on one of the following findings:

- (A) That the Landmark Commission erred in its application of the Architectural Design Standards; or

- (B) That the Landmark Commission committed procedural error which substantively affected the rights of the applicant or the rights of any interested party of record to a Certificate of Appropriateness.

**Section 150.365  
Park/Open Space District**

**150.365.1 Purposes.**

The Park/Open Space district (OS) and the associated regulations are established in order to achieve the following purposes:

- (D) To accommodate a wide variety of private, public and quasi-public open spaces, institutions, and facilities, including parks, wooded and natural habitats, golf courses, cemeteries, and a limited range of other uses, such as recreation/sports centers, facilities and concessions, and agricultural land. These areas provide cultural and recreation opportunities; protect and preserve natural and scenic areas; protect sensitive natural resource areas; and offer refuge from the built, urban environment. open spaces and facilities provide recreational and cultural opportunities and supporting services for surrounding neighborhoods. Other than cemeteries, the OS District is intended to be applied exclusively to publicly owned lands. (Ord. 30515-05, passed 12-28-05)

#41 →

150.365.2 PERMITTED USES IN THE PARK/OPEN SPACE DISTRICT	
	OS Park/Open Space
<b>(1) Community Facilities/Institutions</b>	
<u>Church/religious assembly</u>	<b>P</b>
<b>(2) Recreation/Open Space</b>	
<u>Bee Keeping</u>	<b>P<sup>1</sup></b>
<u>Sports facility</u>	<b>C</b>
<b>(3) Other</b>	
<u>Multi-family dwelling</u>	<b>P<sup>2</sup></b>
<u>Single-family dwelling, detached</u>	<b>P<sup>2</sup></b>
<u>Two-family dwelling</u>	<b>P<sup>2</sup></b>
<p><b>Notes to Schedule 150.365.2;</b>  <sup>1</sup> As regulated by Section 150.420.1  <sup>2</sup> Shall be permitted by right in a residentially constructed building existing prior to August 1, 2006.</p> <p>P = Use permitted by right; P* = Use permitted by right as further regulated by Section 150.500; C = Conditional Use, A = Accessory Use                      Blank cell = Use not permitted                      PD = Shall be permitted only as part of a Planned Development</p>	

#42 →  
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**Section 150.375**  
**Graphics Overlay Districts**

- ~~§ 150.375.1 Purposes~~
- ~~§ 150.375.2 Definitions~~
- ~~§ 150.375.3 Permitted Graphics~~
- ~~§ 150.375.4 Graphics Plan Submission and Approval Process~~
- ~~§ 150.375.5 Design Standards~~
- ~~§ 150.375. Standards for Graphics Plan Approval~~

# 43

**150.375.1 Purposes.**

~~The Downtown Graphics Overlay Districts (GO-1 and GO-2) and their regulations are established in order to achieve the following purposes:~~

- ~~(A) To reflect and reinforce the downtown as an area with a distinctive urban character.~~
- ~~(B) To reinforce cohesive districts and corridors through the development of varied and unique design, lighting, and land use strategies.~~
- ~~(C) To create unique and destination-oriented attractions in downtown and to make downtown streets, sidewalks, and public spaces the finest pedestrian environment as envisioned in the City's Comprehensive Plan.~~
- ~~(D) To respect the historical context of the downtown area as a place that accommodates unique design, lighting, and land use strategies.~~
- ~~(E) To help revitalization efforts by adding visual interest in areas where unique lighting and graphics are suitable, desirable, and part of an adopted strategy.~~
- ~~(F) To be consistent with the Purposes enumerated in 150.900.1 and 150.925.1 of the Zoning Code by encouraging the installation of conforming signs and the removal of non-conforming off premise signs.~~
- ~~(G) To advance the goals, objectives, and principles in the City's Comprehensive Plan.~~
- ~~(H) To provide regulations that will ensure the proper design and character of proposed graphics. (Ord. 30948-09, passed 12-16-09)~~

**150.375.2 Definitions.**

~~For the purposes of this section of the Zoning Code, graphics are classified as either a "downtown wallscape" or a "downtown electronic message center." Off premise advertising is permitted on both downtown wallscares and downtown electronic message centers.~~

- ~~(A) Downtown wallscape is composed of vinyl or similar material and is applied to the wall surface by means of a mounting system approved by the Plan Board.~~
- ~~(B) Downtown electronic message center refers to LED (light emitting diode) boards or video screens affixed to a building that are capable of displaying alternating and dynamic messages. (Ord. 30948-09, passed 12-16-09)~~

43

~~150.375.3 Permitted Graphics:~~

- (A) ~~Graphics Overlay District 1. Downtown wallscapes and downtown electronic message centers are permitted as part of a Graphics Plan in the Graphics Overlay District 1 (GO-1). A wider variety of signage types are permitted in this district due to the existing character and design of the structures, the current land uses, and the adopted plans for the applicable area.~~
- (B) ~~Graphics Overlay District 2. Downtown wallscapes are permitted as part of a Graphics Plan in the Graphics Overlay District 2 (GO-2). Downtown electronic message centers are prohibited in this district; however, all permitted signage in the underlying zoning district is permitted in the GO-2 overlay. (Ord. 30948-09, passed 12-16-09)~~

~~150.375.4 Graphics Plan Submission and Approval Process:~~

- (A) ~~A property owner located in an area designated as a Graphics Overlay Zoning District on the official Zoning Map may apply to the City Plan Board, pursuant to the procedures for Major Site Design Plan Review in Section 150.115, by submitting a Graphics Plan as provided for in this Section.~~
- (B) ~~Pre application meeting encouraged. The applicant is encouraged to meet with the staff of the Department of Planning and Community Development prior to submitting a Graphics Plan. The purpose of these meetings is to discuss early and informally with the applicant the purpose and effect of this section of the Zoning Code. However, no opinions, suggestions, or recommendations discussed may be relied on by the applicant as a guarantee of subsequent approval or disapproval of the Graphics Plan.~~
- (C) ~~The Plan Board shall conduct a public meeting in accordance with the Major Site Design Review procedures set forth in 150.115 of this Zoning Code after giving notice as prescribed by 150.115.8.~~
- (D) ~~The Graphics Plan shall include the following information:~~
- ~~(1) Dimensioned, color elevations indicating all existing and proposed graphics, signage, and lighting elements;~~
  - ~~(2) Elements of the graphics plan shall be shown as a full color rendering on the proposed location where the sign is proposed;~~
  - ~~(3) A description of all signage materials including how and during what times the graphic will be illuminated;~~
  - ~~(4) A description of all methods of application and/or mounting;~~
  - ~~(5) Ancillary lighting, as described in this section, that will help meet the purposes of this Section; and~~
  - ~~(6) Any additional information necessary to review the proposal as requested by the Plan Board or staff to the Plan Board.~~

- (E) ~~The City Plan Board shall review the Graphics Plan, and may approve, deny, or approve with conditions the Graphics Plan based on the standards listed in 150.375.6.~~
- (F) ~~If the Plan Board approves the submitted Graphics Plan, the applicant shall not be subject to sign regulations as set forth in 150.900 and 150.925 in terms of quantity, size, materials, placement or other factors that have been adequately addressed in the Graphics Plan. Regulations in 150.900 and 150.925 that are not addressed in an approved graphics plan shall still apply to the subject property.~~
- (G) ~~Properties in a Graphics Overlay Zoning District that do not have an approved graphics plan shall conform to all applicable sign regulations in this Zoning Code.~~
- (H) ~~Ancillary lighting required. To further the goal of creating a unique, pedestrian friendly atmosphere downtown, ancillary lighting shall be provided whenever a downtown wallscape or downtown electronic message center is utilized. Ancillary lighting includes one or more of the following:~~
  - (1) ~~Lighting of public street facing façades.~~
  - (2) ~~Lighting of architecturally significant features of a building, as determined by the Plan Board.~~
  - (3) ~~The use of lighting to highlight pedestrian paths and walkways.~~

~~In considering whether the proposed ancillary lighting is an adequate element of the Graphics Plan, the Plan Board shall determine that the applicant proposes lighting improvements that will make a significant contribution to the aesthetic impact of the structure and improve the pedestrian environment.~~

~~Any ancillary lighting approved as part of a Graphics Plan shall be maintained and kept in good working condition by the property owner of the building onto which the approved graphic is affixed.~~

- (I) ~~As a means of advancing the purposes of the Section and providing an alternative method for complying with its provisions, the applicant may propose to remove an existing off-premise sign(s), which is not located in a Permitted District as provided for in sub-section 150.925.4 in lieu of providing the ancillary lighting required by sub-section 150.375.4(H). The billboard(s) shall be removed and the ground restored to a graded/seeded or paved condition as appropriate prior to the issuance of any permit required for installation of the graphic or any ancillary design feature. In considering the whether to approve such an agreement, the Plan Board shall consider the following factors:~~
  - (1) ~~The zoning district(s) in which the off premise sign(s) proposed for removal is located.~~
  - (2) ~~The effect the proposed removal would have on land available for new off-premise signage in proximity to the removal location.~~
  - (3) ~~The visual impact that the off premise sign(s) proposed for removal has on views, vistas, open space, and the pedestrian environment.~~

- (4) For off premise sign(s) located in the CBD or UBD zoning districts, the contribution that the existing off premise sign(s) makes to a dynamic visual environment that is unique to the region.
- (5) Condition and type of off premise sign(s) to be removed and the impact on adjacent uses and residential districts.
- (6) Proximity of off premise sign(s) to be removed to other existing off premise signs and the cumulative effect of these signs on other properties.
- (7) Illumination, if any, of the proposed off premise sign(s) to be removed.
- (8) The objectives of this Zoning Code and land use plans adopted by the city. (Ord. 30948-09, passed 12-16-09; amend Ord. 31142-11, passed 12-21-11)

**150.375.5 Design Standards:**

- (A) Graphics shall not obscure or shield from public view windows or architecturally significant features of any building as determined by the Plan Board.
- (B) Text and logos shall be limited to ten (10) percent of the area of each downtown wallscape area, not including text and logos that are incidental to the imagery displayed on the mural as determined by the Plan Board.
- (C) Downtown wallscapes shall not have dimensions that are similar to traditional billboards, unless the Plan Board determines that such dimensions are necessary to complement the building and enhance existing architecture.

Traditional billboard dimensions for the purpose of this Zoning Code are:

Height	Width
6 feet	12 feet
12 feet	24 feet
10 feet	30 feet
10.5 feet	36 feet
14 feet	48 feet

Downtown wallscapes shall not have two measurements (height and width) that are within twenty five (25) percent of these dimensions.

- (1) No new freestanding signage shall be permitted.
- (2) Downtown electronic message centers shall not have brightness levels that have a negative impact on other properties. Lighting standards listed in 150.420.3 shall apply to downtown electronic message centers.
- (3) Downtown electronic message centers may include continuous movement of graphics when not visible from a residential zoning district. When visible from a residential zoning district, standards listed in 150.900 shall apply to downtown electronic message centers.

- (4) ~~Graphics shall not cover more than twenty five (25) percent of the primary building frontage, unless the Plan Board determines that allowing more than twenty five (25) percent coverage would not have a substantial negative impact on the design and visual impact of the primary building frontage. (Ord. 30948-09, passed 12-16-09; amend Ord. 31028-10, passed 10-20-10)~~

**150.375.6 Standards for Graphics Plan Approval**

The Plan Board shall consider and weigh the following factors in considering a Graphics Plan for approval:

- (A) ~~Whether the Graphics Plan will meet the objectives of this Section by adding visual interest and contributing to a unique urban environment.~~
- (B) ~~Whether the Graphics Plan meets the Design Standards listed in 150.375.5.~~
- (C) ~~Whether the Graphics Plan will cause a negative impact on adjacent land uses, including the visual impact on structures listed on the National Register of Historic Places, either individually or as part of a district, or on properties with residential uses.~~
- (D) ~~Whether the Graphics Plan will cause a negative impact on the safety and use of public thoroughfares.~~
- (E) ~~Whether the Graphics Plan will be aligned with other city plans and policies.~~

~~In order to maintain a dynamic visual environment, and depending on durability and/or method of installation, the Plan Board may impose a time limit on the display of a graphic.~~

~~Graphics shall be properly maintained and not be allowed to fall into a state of disrepair or deterioration.~~

~~Any proposal to alter an approved graphic or substitute a different graphic at the same location shall require approval of the Plan Board in accordance with the procedures outlined in 150.375.4. (Ord. 30948-09, passed 12-16-09)~~

Section 150.400  
Supplemental District Regulations

150.420.1 Bee Keeping

The keeping of bees, and associated beehives, shall be governed by the following regulations:

(A) In Residential Districts, the following regulations shall apply.

(1) Number. No beehive shall be kept on a zoning lot less than ~~7,500~~ **3,000** square feet in area. **A maximum of two hives are permitted on zoning lots between 3,000 and 7,000 square feet in area.** Additional hives may be added at the rate of one (1) hive for every additional ~~5,000~~ **3,000** square feet of lot area.

**44** →

(2) Locations and Setbacks. No beehive shall be kept closer than ten (10) feet from any lot line and ten (10) feet from a dwelling or the permitted placement of a dwelling on another lot. No beehive shall be kept in a required front setback or corner side setback. No hive shall be placed within thirty (30) feet of any public sidewalk or roadway. The front of any beehive shall face away from the property line of the residential lot closest to the beehive.

└─→

**Rooftop hives shall be setback six (6) feet from the edge of a roof. Hives located within twenty (20) feet of a door or window of an abutting lot must face away from such doors or windows or a flyway barrier as outlined in 150.420.1(A)(3) shall be applied.**

(3) Fences and Shrubs. A solid fence or dense living hedge at least six (6) feet in height shall be placed along the side or rear property line for any hive within ten (10) feet of the lot line. The solid fence or dense living hedge shall extend at least twenty (20) feet on either side of the hive. A "flyway barrier" consisting of solid fence or dense living hedge shall be required along the property line if the front of the beehive is located within twenty-five (25) feet from any lot lines. No flyway barrier shall be required for a beehive that is located on a porch or balcony at least ten (10) feet above grade, except if such porch or balcony is located less than ten (10) feet from a property line.

└─→

**Rooftop hives located within twenty (20) feet of a door or window of an abutting lot shall provide a six (6) feet high flyway barrier comprised of a lattice fence, dense living hedge, or similar material. The flyway barrier must be established in front of the opening of the beehive such that the bees fly upward and away from neighboring properties. The flyway barrier shall be located within three (3) feet of the front of the beehive and shall extend at least two (2) feet in width on either side of the front of the beehive.**

**150.420.2 Performance Standards**

No land or structure in any zoning district shall be used or occupied in any manner to create a dangerous or objectionable condition, substance or element, in such a manner or in such amount to adversely affect the adjoining premises or surrounding area. All uses, except those in Industrial Districts that must comply with the performance standards in sub-section 150.340.9, shall comply with the following performance standards:

- (G) Odors. No use shall emit malodorous gas or matter that is discernible on any adjoining lot or property. No use shall allow for the bedding, fur, feathers, feces, and/or urine of domestic animals to collect or remain on the premises whereby noxious odors or offensive smells are generated and discernable on any adjoining lot or property.

#45 →

**150.445 Vacation of Rights-of-Way**

- (C) Expiration of Conditions. Conditions established by the Plan Board shall be valid for a period of twelve (12) months or any other period of time established by the Plan Board. The Secretary of the Plan Board may grant one twelve (12) month extension upon written request, without action by the Plan Board, provided the Board is notified of the extension.

#46 →

Section 150.500  
Conditional Use and Specific Use Regulations

150.558 Finality of Decisions

Decisions by the Board of Zoning Appeals granting or denying a conditional use shall be final subject only to judicial review in accordance with law. If judicial review is sought, such appeal shall be filed within thirty (30) days of the decision by the Board of Zoning Appeals. Unless prohibited by law, the City of Dayton may seek judicial review of decisions by the BZA.

150.565.15 Crematorium; Incinerator

The specific regulations for a crematorium/incinerator, except those accessory to funeral homes, shall be as follows:

- (A) The minimum lot size shall be ten (10) acres.
- (B) Such uses shall be located on an arterial or higher street classification.
- (C) Such uses shall obtain all required permits and approvals from the State of Ohio and/or any other applicable permitting authority. All documentation submitted to these authorizes, to obtain approval, shall also be submitted as part of the application for a conditional use permit.
- (D) The structure housing the crematorium and the incinerator shall be setback a minimum of 1000 feet from any property line that is adjacent to a residential zoning district boundary, a residential use, a school, or a park. If the facility is not adjacent to these uses or zoning districts, the structure housing the crematorium and the incinerator shall be setback 300 feet from all lot lines.
- (E) Within the setback required in the sub-section 150.565.15 (D) above, a buffer yard, with a minimum width of fifty (50) feet, shall be planted with large and small evergreen trees and one row of evergreen shrubs. The large evergreen trees shall be at least six (6) feet in height when planted and allowed to grow to a minimum of ten (10) feet. The small evergreen trees shall be at least four (4) feet in height when planted and permitted to grow to a minimum of six (6) feet.
- (F) All outdoor activities and storage associated with these facilities shall be entirely enclosed within a solid wall or fence, which includes solid gates. The minimum height is ten (10) feet. Items shall not be piled or stored higher than the top of the fence or wall and in no case shall stored items be visible from adjacent properties.
- (G) Applications for incinerators shall include all of the information required for a conditional use and such additional information as may be required to evaluate the proposal and mitigate adverse impacts, and the following:
  - (1) A description of the sources of the waste to be disposed of and a detailed description of the physical and chemical properties of both the waste and its degradation products which may cause or contribute to harm to the public health, the environment, or which may otherwise create a nuisance.
  - (2) A description of all of the land necessary, required or to be used in any way for the facility or site, including but not limited to, buffers, monitoring/control stations, sedimentation ponds, leachate management system and all land shall be included in the conditional use application.

- (3) An environmental impact statement that includes an analysis of all physical, social, cultural and economic components of the environment and actions necessary to mitigate adverse impacts.
- (4) A description, plan and timetable for routine maintenance and cleaning of access routes and other off site facilities and improvements required to bring access routes and facilities up to City standards.
- (5) A description, plan and timetable for site preparation activities, including, but not limited to time, schedules, hours of operation, mitigating actions to ensure compliance with all applicable federal, state and local construction standards.
- (6) A description, plan and timetable for construction and/or development activities, including, but not limited to time schedules, hours of operation, mitigating actions to ensure compliance with all applicable federal, state and local construction standards.
- (7) A description, plan and timetable for operating and closure activities, including, but not limited to, time schedules, hours of operation, mitigating actions to ensure compliance with all applicable federal, state and local construction standards.
- (8) A description, plan and timetable for post-closure activities and monitoring, if applicable.

**150.565.17 Day Care Center, Adult or Child**

The specific regulations for a day care center, adult or child shall be as follows:

- (A) General Requirements:

#49 → ~~(3) The minimum lot size shall be 22,000 square feet.~~

**150.565.22 Family Day Care Home for Seven (7) to Twelve (12) Children**

The specific regulations for a family day care home for seven (7) to twelve (12) children shall be as follows:

- (A) General Requirements

#50 → ~~(1) A paved off street drop-off area and pick-up area shall be provided. Use of alternative pavements, such as brick pavers, is encouraged.~~

(2) A copy of the site plan, and descriptive plan of operation, **including procedures for dropping off and picking up children**, submitted to the applicable State agency shall be submitted as part of the application.

**150.565.37 Motor Vehicle Sales and Rental (Including Boats).**

The specific regulations for a motor vehicle sales and rental establishment (including boats) shall be as follows:

#51 → ~~(G) With the exception of areas devoted to motor vehicle sales and areas used for the outdoor storage of vehicles, the display area(s) for vehicle parking areas shall comply with Section 150.800, Landscaping and Screening Regulations.~~

**150.565.42 Parking Lot, Restricted**

The specific regulations for a restricted parking lot shall be as follows:

- (E) All restricted parking lots with more than 10 parking spaces shall provide side and rear setbacks abutting a residential district of at least ten (10) feet. Front setbacks shall conform to the requirements of the underlying zoning district or ten (10) feet, whichever is greater. Screening shall be provided in accordance with the requirements in sub-section 150.800.9 (B), Screening Along Public Streets & Perimeter of Parking Areas. If the parking lot does not abut a residential zoning district, the applicable parking setback requirements for the underlying district shall apply for the side and rear setbacks.

#52 →

**150.565.53 Restaurant, Outdoor Dining**

The specific regulations for outdoor dining shall be as follows:

- (A) Restaurants shall be permitted to operate outdoor dining on sidewalks, including areas within the public right-of-way and in courtyards, provided that pedestrian circulation and access to store entrances shall not be impaired. The following standards shall apply to outdoor eating areas:

- (4) The operators of outdoor dining shall maintain a clean, litter-free, and well-kept appearance within and immediately adjacent to the area of safe activity outdoor-dining area.

#53 →

**150.565.80.5 Wall Mural**

The specific regulations for a wall mural shall be as follows:

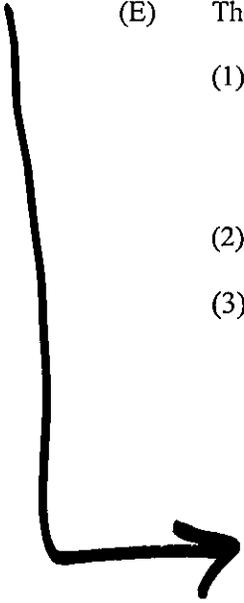
- (A) Wall murals shall not be permitted on the front façade of a building. In the HD-1 and HD-2 Historic Overlay Districts, wall murals shall conform to the requirements of Section 150.345.

#54 →

- (E) The application for a wall mural shall include:

- (1) A color photographic or digital image of the proposed wall location in the context of adjoining properties, and a color image depicting the proposed wall mural to represent with general accuracy the appearance of the wall with the addition of the mural.
- (2) A description of the materials to be used.
- (3) Written permission from the owner of the building or structure on which the wall mural will be placed.

In lieu of written permission from the owner of the building or structure on which the wall mural will be placed, notice of intent to create the wall mural shall be mailed by certified mail and regular mail at least thirty days (30) days prior to the date of the creation of the mural to the owner of record of the property as it appears on the County Auditor's current list. The owner of record shall have 30 days from the issuance of the certified mail and regular mail to contact the Zoning Administrator and grant permission for the wall mural or deny permission for the wall mural. Should the owner of record not contact the Zoning Administrator during the thirty (30) day period, the Zoning Administrator may consider permission granted.



- (4) Any other information the Zoning Administrator deems necessary to review and evaluate the request.

**Section 150.600**  
**Regulations for Wireless Telecommunication Facilities**

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**150.600.7 Standards Applicable to all Wireless Telecommunication Facilities**

All wireless telecommunication towers and facilities shall comply with the following standards and conditions.

- (J) ~~All towers above 100 feet shall be artificially lighted. In addition,~~ All FAA regulations addressing safety marking and obstruction lighting shall be followed when necessary. Lighting for security purposes shall be permitted at the base of the wireless telecommunication tower.

#55 →

**Section 150.700  
Off-Street Parking & Loading Regulations**

**150.700.3 Units of Measure**

In computing the number of parking spaces required by this Code, the following rules shall apply. Some parking requirement reductions are permissible pursuant to sub-section 150.700.11:

#56 →

~~(E) Parking for Mixed Uses. A building or group of buildings containing two (2) or more uses, operating normally during the same hours, and which have different off street parking requirements, may jointly provide spaces for not less than the sum of the spaces required for each use.~~

Schedule 150.700.7 Off-Street Parking Requirements for Non-Commercial Uses in Commercial, Mixed-Use Hub and Transitional Districts	
LAND USE	MINIMUM REQUIREMENT
(4) Community Facility/ Institution	
(f) Membership club	None - 1 per 4 persons at design capacity

#57 →

Section 150.800
Landscaping & Screening Regulations

150.800.1 Purpose.

The preservation of existing trees and vegetation, as well as the planting of new trees and vegetation, can significantly add to the quality of the physical environment of the City of Dayton. The regulations contained below are designed to provide for the health, safety, and welfare of the residents of the City by:

#58

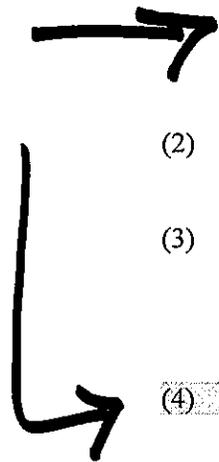


- (A) Promoting the proper utilization of landscaping and screening as a buffer between certain land uses and to minimize the possibility of nuisances including potential noise, glare, and the visual clutter associated with parking and service areas;
(B) Reducing the hazards of flooding and aid in the control of erosion and storm water runoff;
(C) Providing physiologically, psychologically, sociologically, and aesthetically necessary counterpoints to the man-made urban environment; and
(D) Protecting, preserving, and promoting the aesthetic character valued by the residents of the City of Dayton; and
(E) Restoring, protecting, preserving, and increasing a diverse, healthy tree canopy throughout the City of Dayton, (Ord. 30515-05, passed 12-28-05)

150.800.5 Landscaping Requirements Along Street Frontages

In all zoning districts, owners shall plant and maintain shade trees along public streets in compliance with the following:

#59



- (A) Species and Location Requirements.
(1) Trees shall be limited to species characterized as hardy, long-lived shade trees. Prohibited tree Suggested species are listed in Schedule 150.800.7a. The City Zoning Administrator, Board of Zoning Appeals, or the Plan Board may approve other species. The Director of Public Works may prohibit tree species in addition to those listed in Schedule 150.800.7.
(2) One tree shall be provided for every thirty (30) linear feet of frontage, or fraction thereof, along each road.
(3) Trees are to be planted within ten (10) feet of the rights-of-way of the road or roads within and abutting the development. In those Zoning Districts with no required front or side setbacks, the street trees shall be located in the street right-of-way.
(4) The planting of trees in the street right-of-way underneath overhead primary electric distribution lines is discouraged.

#59 →

(5) In those locations where an overhead primary electric distribution line exists, trees should be planted a minimum of ten (10) feet away from the overhead primary electric distribution line. If this is not possible due to an insufficient setback or right-of-way, the Zoning Administrator, Board of Zoning Appeals, or the Plan Board, whichever is applicable, may waive the required trees or request that the required trees be planted along a nearby street right-of-way or public park. Such alternate location should be approved by the Department of Public Works.

→

(6) In the Downtown Districts, the Mature Neighborhood Commercial District, and the Mature General Commercial District, if the street right-of-way lacks a tree lawn, street trees shall be planted in sidewalk pits. The Division of Civil Engineering shall approve the location of these pits. The minimum dimensions for such pits shall be 5 feet X 5 feet. If the sidewalk is too narrow to permit sidewalk pits of such a size, the Zoning Administrator may grant an exception to a dimension that would both accommodate a street tree and permit pedestrian traffic.

→

(7) Each tree at the time of installation shall have a minimum caliper of between 2.0 and 2.5 inches and a clear trunk height of at least between five (5) and six (6) feet.

(8) In those instances where eight (8) or more trees are to be planted, there shall be a minimum diversity of two (2) tree species planted at a minimum 3:2 ratio. The Zoning Administrator and the Director of Public Works may agree to waive this requirement if a single tree species is deemed an important design feature.

(9) Trees shall be planted an adequate distance from intersections so that at full maturity such planting shall comply with sub-section 150.410, Visibility at Intersections, to ensure the unobstructed visibility of motorists and pedestrians. (Ord. 30515-05, passed 12-28-05; amend Ord. 31142-11, passed 12-21-11)

**150.800.6 Maintenance & Removal of Trees Within the Street Right-of-Way**

#60 →

(B) Removal. Trees within street rights-of-way shall not be removed without written approval from the Division of Parks and Forestry, which is housed in the Department of Public Works. Any tree that is removed shall be replaced with the size and species of tree approved by the Division of Parks and Forestry Department of Public Works. (Ord. 30515-05, passed 12-28-05; amend Ord. 31142-11, passed 12-21-11)

**150.800.7 Recommended Tree Species and Quality of Plant Materials and Prohibited Tree Species**

#61 →

(A) ~~Schedule 150.800.7a Recommended Trees.~~ Acceptable trees include, but are not limited to, those identified as suitable for the use intended in Schedule 150.800.7a below.



Fraxinus spp. — Ash
Salix Babylonica — Weeping Willow

#61



- (A) Evergreen trees should only be used for screening purposes and shall not be permitted in any public street right-of-way. Evergreen trees shall only be planted in planting areas with sufficient space to permit the trees to grow to maturity.
- (B) All plant materials shall be equal to or better than the requirements of the American Standard for Nursery Stock, American Association of Nurserymen (AAN Standards). All plants shall be typical of their species and variety, shall have a normal habit of growth, and shall be first quality, sound, vigorous, well-branched and with healthy, well-furnished root systems. They shall be free of disease, insect pests and mechanical injuries.
- (C) Non-ornamental fruit bearing trees shall not be planted as street trees.
- (D) Schedule 150.800.7 – Prohibited Tree Species

The trees in Schedule 150.800.7 are prohibited. The Director of Public Works may prohibit tree species in addition to those listed in Section 150.800.7.

Schedule 150.800.7 Prohibited Tree Species*	
BOTANICAL NAME	COMMON NAME
Acer saccharinum	Silver maple
Ailanthus altissima	Tree-of-heaven
Elaeagnus angustifolia	Russian-olive
Fraxinus spp.	Ash (All varieties)
Lonicera maackii	Bush honeysuckle
Morus spp.	Mulberry (All varieties)
Pyrus calleryana	Flowering pear (All varieties)
Populus spp.	Poplar (Excluding Tulip poplar)
Salix babylonica	Weeping willow (All varieties)
Ulmus pumila	Siberian elm
* The Director of Public Works may prohibit tree species in addition to those listed in this Schedule.	

**150.800.8 Screening**

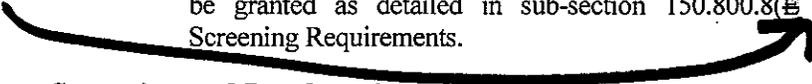
Screening shall be provided in accordance with the following regulations and shall be approved as part of the site design plan required by Section 150.115.

- (D) Screening. When the natural vegetation does not form a solid, continuous, visual screen or does not have a minimum height of six (6) feet along the entire length of the common boundary at the time of occupancy, screening shall be installed in compliance with the following:

(1) Screening Materials. Screening design and development shall be compatible with the existing and proposed land use and development character of the surrounding land and structures. Screening shall consist of one or more of the following:

(a) A dense vegetative planting incorporating trees and/or shrubs of a variety which shall be equally effective in winter and summer. Trees and/or shrubs shall be adequately spaced to form a solid, continuous visual screen within three (3) years after the initial installation. Specific exceptions to this requirement may be granted as detailed in sub-section 150.800.8(~~E~~ C), Modifications to Screening Requirements.

#62



150.800.9 **Screening and Landscaping of Parking Lots**

(A) Landscaping on the Interior of Parking Lots. With the exception of motor vehicle sales lots and areas used for the outdoor storage of vehicles, interior landscaping of parking lots shall be provided in accordance with the following requirements:

#63 →

Section 150.900  
Sign Regulations

150.900.2 Definitions

The following shall serve as definitions as they are referred to within this Section:

#64 →

(DD) Sign, Temporary means any sign that is designed to be used only temporarily and is not intended to be permanently attached to a building, structure, or permanently installed in the ground. Temporary signs may be displayed as window signs. **A wallscape shall not be considered a temporary sign.**

↳

(EE) Sign, Wall means a building sign that is painted on, or attached to, a building wall, with the exposed sign face in a plane parallel to the plane of the wall, that does not extend more than twelve (12) inches there from, and that does not project above the roofline or beyond the corner of the building. **A wall sign shall not be considered a wallscape.**

↳

(HH) **Wallscape means a message and/or graphic that is printed on vinyl or similar material and is applied to the wall surface of a building for no more than 180 days. A wallscape may include on-premise or off-premise advertising messages. A wallscape shall not be considered a temporary sign, a wall sign, or a building sign.**

150.900.6 Signs and Wallscales in Downtown Districts

#65 ↗

(A) Schedule 150.900.6 of Signs and Wallscales in Downtown Districts. All signs and wallscales in downtown districts shall conform to the maximum area, height and quantity regulations set forth in Schedule 150.900.6.

Schedule 150.900.6 Signs and Wallscales in Downtown Districts	
(1) Building Signs	
(a) Building Sign	1.05 sf <sup>1</sup>
(3) Wallscales	Only permitted in CBD; No maximum area <sup>4</sup>
<sup>1</sup> per lineal foot of the principal building's primary frontage	
<sup>4</sup> See sub-section 150.900.13 (E), Wallscales	

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(B) Additional Building Signs for Multiple Story Buildings in Downtown Districts. In addition to the building signs permitted in Schedule 150.900.6, one (1) additional sign is permitted on any one (1) of the building's primary or secondary frontages according to the following.

- (1) For a building with two (2) floors, the additional permitted sign area is forty (40) square feet.
- (2) This additional sign area may be increased by ten (10) square feet for each additional floor in the building; up to a maximum of 200 square feet.
- (3) The additional sign area permitted by this Section shall be placed above the first floor of the building or its related parking structure.

**150.900.9.5 Signs in the Well Head Operation (WO) District**

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All signs in the Well Head Operation (WO) District shall comply with the regulations for the Eclectic (ENC and EGC) Commercial Districts contained in Section 150.900.7 as well as the additional regulations of Section 150.900.

150.900.13 Supplemental Sign Standards.

(E) Wallscape. Where wallscape are permitted, the following regulations apply:

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(1) A wallscape shall not obscure or shield from public view windows or architecturally significant features of any building.

(2) A wallscape shall not have proportions that are similar to traditional billboards, unless the Zoning Administrator determines that such proportions are necessary to complement the building and enhance existing architecture.

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Acceptable proportions for a wallscape are a length equal to or lesser than 1.5 times the height, or a length equal to or greater than four times the height.

↘

(3) A wallscape shall not cover more than twenty five (25) percent of the primary building frontage, unless the Zoning Administrator determines that allowing more than twenty five (25) percent coverage will not have a substantial negative impact on the design and visual impact of the primary building frontage.

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(4) A wallscape shall not be allowed to fall into a state of disrepair or deterioration.

(5) A wallscape shall be removed within 180 days of installation, after which the same wallscape shall not be installed at the same location for 90 additional days.

150.900.18 Regulations for Non-Conforming Signs

(B) Alteration and Removal Non-Conforming Signs.

(1) Non-conforming signs shall be removed and any subsequent modification or replacement, excluding maintenance pursuant to sub-section 150.900.15(D), shall conform to all requirements of this Section:

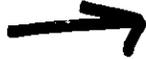
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(a) When more than fifty (50) percent of the physical replacement value of the sign has been destroyed or taken down, determination of said physical replacement value shall not include consideration of such factors as the geographic location of the sign or its non-conforming status.

(b) When the use, to which the non-conforming sign is accessory, is abandoned for ninety (90) consecutive days, by the owner shall remove the sign from the premises within ten (10) days after the use is deemed abandoned.

(2) A non-conforming sign shall not be altered or modified or reconstructed other than to comply with this Section except that:

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(a) When the existing use has new ownership which results in a change in the name of the use or business on the property or when the space is reoccupied by a similar use and the new occupant requires no external building or site renovation, then the message of a non-conforming sign may be changed.

(b) An existing sign pursuant to this sub-section may be changed by replacing a sign panel or by repainting a sign face only. Such alterations shall not require changes to the structure, framing or erection or relocation of the sign unless such changes conform to this Section.



(3) Subject to the provisions of this Section, non-conforming signs may be repaired and renovated so long as the cumulative cost of such work does not exceed within any twelve (12)-month period fifty (50) percent of the value of such sign's physical replacement value. When determining said physical replacement value, factors such as the geographic location of the sign or its non-conforming status shall not be considered.

**Section 150.925  
Off-Premise Sign Regulations**

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**150.925.5 Non-Conforming Off-Premise Signs**

Any off-premise sign not installed, constructed, altered, repaired, replaced, located or relocated in accordance with 150.925.4 (A) is a non-conforming off-premise sign and shall be repaired, relocated or replaced only in accordance with 150.925.6 through 150.925.14 or removed in accordance with 150.900.18.

The conversion of an ~~non-conforming~~ off-premise sign **with any non-conforming characteristic** to an electronic off-premise sign shall be prohibited **regardless of the zoning district in which it is located.**

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**Summary of Priority Land Use Boards Meeting  
Plan Board Case Z-003-2016  
Tuesday, February 29, 2016, 6:00 PM  
Dayton Cultural Center**

On Tuesday, February 29, 2016, at the Dayton Cultural Center, 22 members of Dayton's Priority Land Use Boards met to review proposed zoning code amendments for Plan Board Case Z-003-2016. Representatives from all five Land Use Boards attended the meeting.

Staff asked for specific policy direction on four items and then offered to discuss any other amendments on the summary chart. The four items for which policy direction was specifically requested were:

1. Whether family day care homes for 7-12 children should become P\* uses (Permitted with conditions) instead of C uses (Conditional uses that must get BZA approval);
2. Whether the downtown Graphics Overlay District provisions should be expanded to all of the CBD;
3. Whether the opportunities to paint wall murals should be increased; and
4. How our street tree regulations should be modified in light of tree blights and the presence of overhead primary electric distribution lines.

Concerning the four items above, the consensus of those attending the meeting was to:

1. Keep the current land use classifications for Type A day care homes (C for Conditional Use) and do not make them all P\* uses. The C classification requires notification to property owners within 250 feet and the applicable Land Use Board. Land Use Board members thought this notification was helpful to the applicant and neighbors.
2. Support the proposed text amendments that expand the downtown Graphics Overlay District provisions to all of the Central Business District.
3. Keep the current regulation that does not permit wall murals on the front façades of buildings unless a variance is granted by the BZA. The group supports wall murals but did not necessarily want to see the artwork that appears on the side of buildings to be placed on front façades without a hearing before the BZA.
4. Support amending the Zoning Code to allow wall murals to be placed on buildings without the property owner's permission if the property owner was notified and did not respond. The group saw value in using murals to beautify nuisance and abandoned buildings and did not want a property owner permission requirement to be a roadblock.
5. Support the proposed text amendments regarding street trees.

Land Use Board members did not propose any changes to the remaining proposed text amendments.

Prepared by Ann Schenking  
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Carl Daugherty  
Zoning Administration

West Priority Land Use Board  
Ken Marcellus

Downtown Priority Land Use Board  
Tony Kroeger

NorthCentral Priority Land Use Board  
Verletta Jackson

Northeast Priority Land Use Board  
Connie Nisonger

Southeast Priority Land Use Board  
Connie Nisonger

2-003-2016

*Yhera Schroeder*  
1:10 P.M.  
4/4/16

By.....

No.....

**AN ORDINANCE**

Amending, Enacting, or Repealing Various Sections of the Revised Code of General Ordinances Relating to the Zoning Code, and Declaring an Emergency.

**WHEREAS**, Effective, expeditious, and responsible regulation of land requires that the City Commission review and amend certain sections of the Revised Code of General Ordinances relating to the Zoning Code to correct omissions, clarify terminology and provisions, make certain regulations consistent from one zoning district to another, and update regulations to reflect experience to date and emerging best practices; and

**WHEREAS**, The City Plan Board, at its March 8, 2016, meeting, in Case Z-003-2016, recommended approval of amendments to various sections of the Revised Code of General Ordinances relating to the Zoning Code; and

**WHEREAS**, It is necessary for the immediate preservation of the public peace, property, health and safety that this ordinance take effect immediately upon passage; now, therefore,

**BE IT ORDAINED BY THE COMMISSION OF THE CITY OF DAYTON:**

Section 1. That Section 150.110.4(H), Administrative Powers and Duties, Board of Zoning Appeals, Finality of Decisions of the Board of Zoning Appeals, of the Revised Code of General Ordinances, is amended as follows:

- (H) Finality of Decisions of the Board of Zoning Appeals. A decision by the Board of Zoning Appeals shall be final subject only to judicial review in accordance with law. If judicial review is sought, such appeal shall be filed within thirty (30) days of the decision by the Board of Zoning Appeals. Unless prohibited by law, the City of Dayton may seek judicial review of decisions by the BZA.

Section 2. That Section 150.110.5(D)(1), Administrative Powers and Duties, Landmark Commission, Organization of the Landmark Commission, Preservation Officer, of the Revised Code of General Ordinances, is amended as follows:

- (1) Preservation Officer. The Director of Planning and Community Development or his designee shall act as the Preservation Officer and shall approve, modify, or disapprove minor modifications and those major modifications specifically assigned to the Preservation Officer by resolution of the Landmark Commission; shall be responsible for complying with all applicable Federal regulations as outlined in the Historic Preservation Act, as

amended; shall coordinate with the State Historic Preservation Office on issues pertaining to the City's Certified Local Government status; shall be responsible for public outreach, promotion and education for historic preservation; shall be responsible for formation of historic preservation policy; shall perform such other duties provided by this Section or requested by the Landmark Commission; and shall enforce the provisions of this Zoning Code as outlined in Section 150.130.3.

Section 3. That Section 150.115.4(B), Site Design Review Procedures, Site Design Review, Major Site Design Review, of the Revised Code of General Ordinances, is amended as follows:

- (B) Major Site Design Review. The Plan Board shall have decision-making authority for Major Site Design Plan Review as provided for:
  - (1) In Section 150.600, Regulations for Wireless Telecommunication Facilities;
  - (2) In Section 150.925, Off-Premise Sign Regulations; and
  - (3) In any other provision of this Zoning Code.

Section 4. That Section 150.120.7, Appeals and Variances, Decision of the BZA (Appeals or Variances) of the Revised Code of General Ordinances, is amended as follows:

The procedures for rendering a decision on appeals or variances are as follows:

- (A) Where it is alleged there is an error in any order, requirement, decision, interpretation or determination (all hereinafter referred to collectively as "decision") made under this Zoning Code by the Zoning Administrator, except for decisions regarding site design plans that are to be appealed to the Plan Board, the Board of Zoning Appeals may reverse or affirm, wholly or in part, the decision being appealed. The BZA may affirm, reverse or remand, in whole or part, a denial by the Landmark Commission as regulated by Section 150.345.21. In making its decision to reverse or affirm, the BZA may direct the issuance of a permit or certificate.
- (B) The BZA shall render a written decision on the appeal within 30 days after the close of the hearing.
- (C) The Board of Zoning Appeals shall approve, approve with supplemental conditions or disapprove the appeal or request for a variance. If the BZA fails to act within thirty (30) days after the close of the hearing, the appellant may determine that the appeal or variance has been denied.

- (D) The concurring vote of a majority of the appointed members of the BZA shall be necessary to grant a variance. Appointed members shall be considered as those complying with Section 150.110.4 (A).
- (E) In the instance of an appeal where it is alleged there is error in any order, requirement, decision, interpretation or determination (all hereinafter referred to collectively as "decision") made under the Zoning Code by the Zoning Administrator, except for decisions regarding site design plans that are to be appealed to the Plan Board, the concurring vote of a majority of the appointed members of the BZA shall be necessary to reverse or modify any decision of the Zoning Administrator. Appointed members shall be considered as those complying with Section 150.110.4 (A). Additionally, in the case of such an appeal, in order to overturn or modify the decision of the Zoning Administrator, the appellant must demonstrate to the BZA that there is clear and convincing evidence indicating that the Zoning Administrator's decision was made in error.
- (F) The BZA shall transmit a copy of its decision to the applicant or appellant and a copy shall be filed with the Zoning Administrator.
- (G) Once the appellant or applicant has received the BZA's decision, he/she may submit an application for a zoning certificate or conditional use permit that complies with the BZA's decision. A copy of the BZA's decision shall be attached to the application.

Section 5. That Section 150.120.11, Appeals and Variances, Finality of Decisions on Appeals and Variances, of the Revised Code of General Ordinances is amended as follows:

A decision by the Board of Zoning Appeals shall be final subject only to judicial review in accordance with law. If judicial review is sought, such appeal shall be filed within thirty (30) days of the decision by the Board of Zoning Appeals. Unless prohibited by law, the City of Dayton may seek judicial review of decisions by the BZA.

Section 6. That Section 150.130.3, Fees, Penalties and Enforcement, Enforcement, of the Revised Code of General Ordinances is amended as follows:

- (A) The powers and duties of the Zoning Administrator in enforcing the provisions of this Zoning Code include, but are not limited to, the following:
  - (1) Investigate, with or without a complaint, alleged violations of this Zoning Code and/or land use plans in urban renewal project areas;

- (2) Issue notices and orders and take other administrative actions as authorized to enforce the provisions of this Zoning Code and/or land use plans in urban renewal project areas;
  - (3) Deny applications for permits, certificates and approval of plans in violation of this Zoning Code and/or land use plans in urban renewal project areas, and revoke permits, certificates and plans approved for a change in use or occupancy of a property or structure in violation of this Zoning Code and/or land use plans in urban renewal project areas;
  - (4) Assess civil penalties and file misdemeanor complaints and minor misdemeanor citations for violations of this Zoning Code and/or land use plans in urban renewal project areas; and
  - (5) Appear and testify in judicial and quasi-judicial proceedings as required in enforcing this Zoning Code and/or land use plans in urban renewal project areas.
- (B) The powers and duties of the Preservation Officer in enforcing the provisions of this Zoning Code include, but are not limited to, the following:
- (1) Investigate, with or without a complaint, alleged violations of this Zoning Code as they relate to property designated as HD-1, HD-2, or HD-3; and
  - (2) Issue notices and orders and take other administrative actions as authorized to enforce the provisions of this Zoning Code as they relate to property designated as HD-1, HD-2, or HD-3.
  - (3) Appear and testify in judicial and quasi-judicial proceedings as required in enforcing this Zoning Code and/or land use plans in urban renewal project areas.

Section 7. That Sections 150.140.4(A) and (B), Non-Conforming Uses, Buildings, Structures, and Lots, Non-Conforming Use of Buildings and Land, Maintenance, and Alteration or Reconstruction of a Building Occupied by a Non-Conforming Use, of the Revised Code of General Ordinances, are amended as follows:

(A) Maintenance

- (1) Routine Maintenance. Work may be done on routine maintenance and repairs, or on repair or replacement of interior walls, fixtures, wiring or plumbing.

- (2) Buildings Devoted to Residential Uses in an Industrial District. Buildings devoted to a non-conforming residential use in an Industrial District may be maintained, repaired, improved, modernized or enlarged. However, no increase in the number of units shall be permitted.
- (B) Improvement or Reconstruction of a Building/Structure Occupied by a Non-Conforming Use.
- (1) No building or structure occupied by a non-conforming use shall be improved or reconstructed except for routine maintenance or except when the use is changed to a use permitted in the district in which it is located or upon prior approval of the Board of Zoning Appeals, and then only if the cumulative cost of the alteration, reconstruction, or improvement does not exceed 50% of the building's and/or structure's replacement value. Determination of said replacement value shall not include factors such as geographic location or non-conforming status.
- (2) Nothing in this Zoning Code shall prevent the strengthening or restoring to a safe condition of a building or other structure in accordance with the order of a public official who is charged with protecting the public safety and who declares such building or other structure to be unsafe and orders its restoration to a safe condition.

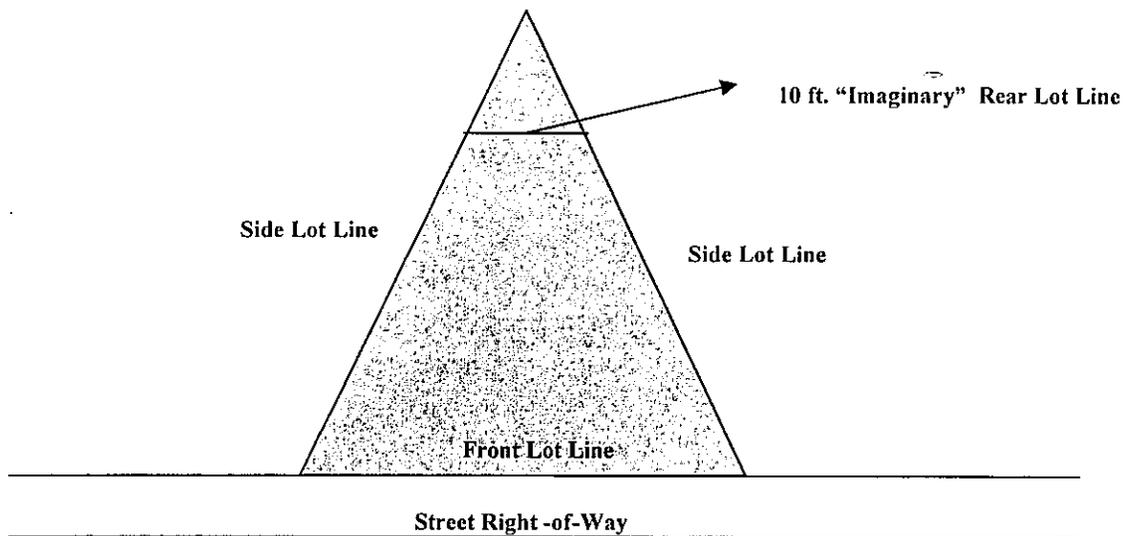
Section 8. That Section 150.200.2, Definitions, Definitions (38), (39), (40), (41), (41A), (92), (125), (137A), and (163) of the Revised Code of General Ordinances are amended as follows, and Definitions (160A), (243A), and (245A) of the Revised Code of General Ordinances, are enacted as follows:

- (38) **Co-location.** The use of a wireless telecommunications facility by more than one wireless telecommunications provider or by one provider for more than one type of telecommunication technology.
- (39) **Commercial motor vehicle.** Any motor vehicle designed or used to transport persons, property, merchandise or freight primarily for-profit as defined in Ohio Revised Code Section 4506.01 (E).
- (40) **Common area.** Any land area and/or facilities that is held in common ownership by the residents through a homeowners' association, community association or other legal entity, or which is held by the individual members of a condominium association as tenants-in-common.

- (41) **Community center.** A building or group of buildings operated by a public or nonprofit group or agency and used for recreational, social, educational or cultural activities.
- (41A) **Community garden.** The use of land for the purpose(s) of harvesting, farming, gardening, beekeeping, or composting that is on a property of less than one acre and does not include the keeping of livestock.
- (92) **Funeral home.** A building or part thereof used for human funeral services. Such building may contain space and facilities for: (a) embalming and the performance of other services used in preparation of the dead for burial; (b) the performance of autopsies and other surgical procedures; (c) the storage of caskets, funeral urns, and other related funeral supplies; (d) the storage of funeral vehicles, and (e) accessory facilities for cremation. Where a funeral home is permitted, a funeral chapel shall also be permitted.
- (125) **Lot line.** The boundary line defining the limits of the lot. Lot line is synonymous with "property line."
- (a) **Lot line, front:** The line separating an interior lot from the street right-of-way on which the lot fronts.
- On a corner lot, the street right-of-way with the least amount of street frontage shall be the front lot line. If the dimensions of a corner lot are within twenty (20) percent or less of being equal, the Zoning Administrator may establish either street frontage as the front lot line. On corner lots with an existing principal building, the Zoning Administrator may establish the line that faces the building entrance as the front lot line.
- (b) **Lot line, rear:** The lot line opposite and most distant from the front lot line; or in the case of triangular or otherwise irregularly shaped lots, an imaginary line ten (10) feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line. See also Figure 4.
- (c) **Lot line, side:** Any lot line other than a front or rear lot line.

Figure 4

Illustration of Lot Lines with an Irregularly Shaped Lot



(137A) **Microbottler.** A facility for the production and packaging of beverages for distribution, retail and/or wholesale, on or off premise. The production and packaging shall be limited to a total area of less than 31,000 square feet. This term shall not include a "Brewpub" or "Restaurant, indoor dining."

(160A) **Overhead primary electric distribution line.** A non-insulated electric power line that supplies the higher voltage to a transformer that provides a lower voltage for a customer's service lines. This line is found at the tops of power poles, either on a cross arm, or a single insulated pin. Secondary (service-voltage current) power lines, telephone, cable television (CATV) and Greater Dayton Regional Transit Authority (GDRTA) lines are excluded from this category.

(163) **Parking lot.** An outdoor paved area made up of marked parking spaces where motor vehicles may be stored for the purpose of temporary off-street parking. Also known as a parking area. This term does not include motor vehicle sales lots and areas used for the outdoor storage of vehicles.

(243A) **Urban Renewal Project Area.** A geographic area defined in an urban renewal plan pursuant to Chapter 45 of the R.C.G.O.

(245A) **Utility trailer.** A small non-motorized vehicle which is generally pulled by a motorized vehicle and features an open-top or enclosed cargo area and is used for hauling.

Section 9. That Section 150.300.1(D), Districts Established: Map and Boundaries, Districts Established, Other Districts, of the Revised Code of General Ordinances, is amended as follows:

(D) Other Districts

- CI Campus-Institutional District
- AP Airport District
- HD-1 Historic Overlay District
- HD-2 Historic Overlay District
- HD-3 Historic Overlay District
- PD Planned Development
- UP Urban Preservation Overlay District
- WO Well Head Operation District
- WP Water Protection Overlay District
- OS Park/Open Space District

Section 10. That Section 150.300.6, Districts Established: Map and Boundaries, Urban Renewal Project Area and Land Use Regulations, of the Revised Code of General Ordinances, of the Revised Code of General Ordinances, is enacted as follows:

Urban renewal project areas are shown on the official zoning map. Urban renewal plans associated with such project areas contain Land Use Plans. When such Land Use Plans conflict with the provisions of this Zoning Code, the Land Use Plans shall prevail.

Section 11. That Schedule 150.305.2, Single-Family Residential Districts, Use Regulations, Permitted Uses in Single-Family Residential Districts, of the Revised Code of General Ordinances, is amended as shown in Exhibit A, attached hereto and incorporated herein.

Section 12. That Section 150.305.5(F), Single-Family Residential Districts, Accessory Use Regulations, Additional Regulations for Vehicles, of the Revised Code of General Ordinances, is amended as follows:

(F) Additional Regulations for Vehicles.

- (1) The repainting, rebuilding, overhauling or dismantling of a vehicle or the storage of tires, motor, body or other parts is prohibited.

- (2) The overnight parking or the outdoor storage of commercial motor vehicles over one (1) ton rated capacity and/or buses is prohibited.
- (3) Accessory off-street parking spaces located in the front yard shall only adjoin the driveway between the driveway and the nearest side lot line, provided parking spaces shall not be located directly in front of the dwelling. In no case shall accessory off-street parking spaces be separated from the driveway and located in the required front setback.
- (4) If a vehicle and/or utility trailer is parked or stored outside, it shall be parked on an impervious surface, such as asphalt or concrete. The area surrounding the parked or stored vehicle and/or utility trailer shall be maintained pursuant to all applicable City ordinances, codes, standards, and regulations.
- (5) For single-family detached dwellings, no more than five (5) vehicles, including recreational vehicles/equipment and/or utility trailers, shall be parked or stored outside. For two-family dwellings, each dwelling unit shall have no more than four (4) vehicles, including recreational vehicles/equipment and/or utility trailers, parked or stored outside.

Section 13. That Schedule 150.320.2, Downtown Districts, Permitted Uses, Permitted Uses in Downtown Districts, of the Revised Code of General Ordinances, is amended as shown in Exhibit B, attached hereto and incorporated herein.

Section 14. That Section 150.320.8(B)(4)(b)(i), Downtown Districts, Accessory Use Regulations, Fences and Walls, Screening and Landscaping, of the Revised Code of General Ordinances, is amended as follows:

- (b) All fences, other than ornamental fences, when visible from public streets, shall be visually softened and reasonably screened from the street with appropriate landscaping as follows:
  - (i) Fences that are located within required building and parking setbacks shall be considered appropriately screened when the landscaping required in subsection 150.800.5, Landscaping Requirements Along Street Frontages, is planted within five (5) feet of the fence and between the fence and the property line.

Section 15. That Schedule 150.320.10, Downtown Districts, Required Design Elements, Pedestrian Oriented Design Principles, of the Revised Code of General Ordinances, is amended as shown in Exhibit C, attached hereto and incorporated herein.

Section 16. That Schedule 150.325.2, Commercial Districts, Permitted Uses, Permitted Uses in Commercial Districts, of the Revised Code of General Ordinances, is amended as shown in Exhibit D, attached hereto and incorporated herein.

Section 17. That Section 150.325.8(B)(4)(b)(i), Commercial Districts, Accessory Use Regulations, Fences and Walls, Screening and Landscaping, of the Revised Code of General Ordinances, is amended as follows:

- (b) All fences, other than ornamental fences, when visible from public streets, shall be visually softened and reasonably screened from the street with appropriate landscaping as follows:
  - (i) Fences that are located within required building and parking setbacks shall be considered appropriately screened when the landscaping required in subsection 150.800.5, Landscaping Requirements Along Street Frontages is planted within five (5) feet of the fence and between the fence and the property line.

Section 18. That Schedule 150.330.2, Mixed-Use and Transitional Districts, Permitted Uses, Permitted Uses in the Mixed-Use and Transitional Districts, of the Revised Code of General Ordinances, is amended as shown in Exhibit E, attached hereto and incorporated herein.

Section 19. That Sections 150.330.5(B) and (C), Mixed-Use and Transitional Districts, Off-Street Parking Requirements, Parking Location, and Off-Street Parking Areas, of the Revised Code of General Ordinances, are amended as follows:

- (B) Parking Location. Off-street parking lots shall be located at the rear or side of the principal building. The Plan Board, the Board of Zoning Appeals, or the Zoning Administrator, whichever is applicable according to the procedures in Section 150.115, may grant an exception to this requirement where necessary due to the shallow depth of the parcel, the location of mature trees or other significant environmental features, the location of historical buildings/structures, the proximity of residential uses, or other similar circumstances. If an exception is granted and off-street parking spaces are adjacent to a public street, a three (3) to four (4) foot masonry knee wall may be required in addition to Section 150.800.9 (B), Screening and Section 150.800.5, Landscaping Requirements Along Street Frontages.

If a vehicle and/or utility trailer is parked or stored outside, it shall be parked on an impervious surface, such as asphalt or concrete. The area surrounding the parked or stored vehicle and/or utility trailer shall be maintained pursuant to all applicable City ordinances, codes, standards, and regulations.

- (C) Off-Street Parking Areas. Off-street parking areas shall conform to the regulations in Section 150.800.9, Screening and Landscaping of Parking Lots. For single-family detached dwellings, no more than five (5) vehicles, including recreational vehicles/equipment and/or utility trailers, shall be parked or stored outside. For two-family dwellings, each dwelling unit shall have no more than four (4) vehicles, including recreational vehicles/equipment and/or utility trailers, parked or stored outside.

Section 20. That Section 150.330.6(D)(4)(b)(i), Mixed-Use and Transitional Districts, Accessory Use Regulations, Fences, Screening and Landscaping, of the Revised Code of General Ordinances, is amended as follows:

- (b) All fences, other than ornamental fences, when visible from public streets, shall be visually softened and reasonably screened from the street with appropriate landscaping as follows:
- (i) Fences that are located within required building and parking setbacks shall be considered appropriately screened when the landscaping required in subsection 150.800.5, Landscaping Requirements Along Street Frontages, is planted within five (5) feet of the fence and between the fence and the property line.

Section 21. That Schedule 150.335.2, Campus-Institutional District, Permitted Uses, Permitted Uses in the Campus-Institutional District, of the Revised Code of General Ordinances, is amended as shown in Exhibit F, attached hereto and incorporated herein.

Section 22. That Section 150.335.5(A), Campus-Institutional District, Off-Street Parking Requirements, of the Revised Code of General Ordinances, is amended as follows:

- (A) Schedule 150.335.5. Minimum Parking Setbacks.

<b>Schedule 150.335.5</b>		
<b>Minimum Parking Setbacks for Surface Parking Lots</b>		
	<b>When more than 150 feet from the Campus-Institutional Zoning District Boundary</b>	<b>When 150 feet or less from the Campus-Institutional Zoning District Boundary</b>
(1) Setback from public street rights-of-way	10 feet <sup>2</sup>	1,2
(2) Setback from an alley	3 feet	3 feet
(3) Setback from abutting residential district boundary	25 feet	25 feet <sup>2</sup>
(4) Setback from all other lot lines		15 feet <sup>2</sup>
<b>Notes to Schedule 150.335.5:</b>		
<sup>1</sup> This setback shall be specifically reviewed during the conditional use process according to the principles in sub-section 150.335.9, Development and Design Guidelines.		
<sup>2</sup> As further regulated by Section 150.335.9 (C ), Design of Parking Areas for Permitted & Conditional Uses		

Section 23. That Section 150.335.6(A), Campus-Institutional District, Accessory Use Regulations, Accessory Buildings, of the Revised Code of General Ordinances, is amended as follows:

- (A) Accessory Buildings. Accessory buildings shall conform to all lot and setback regulations for principal buildings and shall be reviewed according to the site design plan review procedures in Section 150.115, except as provided for in Section 150.335.6(E).

Section 24. That Schedule 150.340.2, Industrial Districts, Permitted Uses, Permitted Uses in the Industrial Districts, of the Revised Code of General Ordinances, is amended as shown in Exhibit G, attached hereto and incorporated herein.

Section 25. That Section 150.345.1(E), Historic Overlay Districts, Purposes, of the Revised Code of General Ordinances, is amended as follows:

- (E) To this end, this Section authorizes the adoption of overlay historic districts and creates a Secretary to the Landmark Commission and a Preservation Officer to review and approve architectural modifications that affect the historic quality of such properties and districts.

Section 26. That Section 150.345.2, Historic Overlay Districts, Designation of Historic District, of the Revised Code of General Ordinances, is amended as follows:

The Landmark Commission shall recommend to the City Plan Board the adoption or modification of a historic district overlay on all eligible areas in accordance with

Section 150.125, Amendments. The boundaries of each such district shall be indicated on the official zoning map.

- (A) The HD-1 Historic District Overlay (HD-1) is an overlay district designed to preserve and protect single parcels or groups of historic properties, including properties listed on the National Register of Historic Places. The district may include a number of non-qualifying properties, undeveloped parcels, or contributing properties that have not undergone rehabilitation.
- (B) The HD-2 Historic District Overlay (HD-2) is an overlay district designed to preserve and protect single parcels or groups of historic properties, listed on the National Register of Historic Places, in which the district as a whole consists primarily of historically or architecturally significant properties which have undergone rehabilitation or restoration.
- (C) The HD-3 Historic Designation Overlay (HD-3) is an overlay district for properties that have been determined by the Landmark Commission, in accordance with sub-section 150.345.4 (C), be historically significant and by doing so, has determined that the loss of these properties is an irreversible act worthy of review.
- (D) All properties designated as HD-1, HD-2, or HD-3 are collectively called the Dayton Register of Historic Landmark Properties.

Section 27. That Section 150.345.3, Historic Overlay Districts, Nomination of Historic District, of the Revised Code of General Ordinances, is amended as follows:

- (A) HD-1 Historic District Overlay.
  - (1) Any area eligible under this Section may be nominated for a HD-1 Historic District Overlay by a petition signed by property owners representing a majority of the parcels in the proposed area. The petition shall be in a form prescribed by the Landmark Commission and filed with the Clerk of the City Commission.
  - (2) The Clerk shall transmit the nomination to the Landmark Commission.
  - (3) The Landmark Commission shall determine the eligibility of the proposed area. If the area is eligible and the petition is valid, the Landmark Commission may ask the Plan Board to initiate an amendment to the official zoning map, which includes controls on particular parcels, for all or part of the original proposed area in accordance with Section 150.125, Amendments. The Plan Board may choose to initiate the amendment as proposed, initiate

the amendment with modifications, or decline to initiate the amendment.

(B) HD-2 Historic District Overlay.

- (1) Any area eligible under this Section may be nominated for a HD-2 Historic District Overlay by a petition signed by property owners representing a majority of the parcels in the proposed area.
- (2) Any single parcel eligible under this Section may be nominated for a HD-2 Historic District Overlay by its owner or a member of the Landmark Commission. The nomination shall be in a form prescribed by the Landmark Commission and filed with the Clerk of the City Commission.
- (3) The Clerk shall transmit the nomination to the Landmark Commission.
- (4) The Landmark Commission shall determine the eligibility of the proposed area. If the area is eligible and the petition is valid, the Landmark Commission may ask the Plan Board to initiate an amendment to the official zoning map, which includes controls on particular parcels, for all or part of the original proposed area in accordance with Section 150.125, Amendments. The Plan Board may choose to initiate the amendment as proposed, initiate the amendment with modifications, or decline to initiate the amendment.

(C) HD-3 Historic District Overlay.

- (1) Any property eligible under this Section may be nominated for a HD-3 Historic District Overlay by the owner of the property or by the Landmark Commission. The nomination shall be in a form prescribed by the Landmark Commission and filed with the Clerk of the City Commission.
- (2) The Clerk shall transmit the nomination to the Landmark Commission.
- (3) Any single property determined to be eligible for or listed on the National Register of Historic Places may be nominated for a HD-3 Historic District Overlay.
- (4) The Landmark Commission shall determine the eligibility of the proposed properties. If the properties are eligible, the Landmark Commission may ask the Plan Board to initiate an amendment to the official zoning map, which includes controls on particular

parcels, for all or part of the original proposed area in accordance with Section 150.125, Amendments. The Plan Board may choose to initiate the amendment as proposed, initiate the amendment with modifications, or decline to initiate the amendment.

Section 28. That Section 150.345.4(C), Historic Overlay Districts, Boundaries, of the Revised Code of General Ordinances, is amended as follows:

- (C) HD-3 Historic District Overlay. Individual properties with a HD-3 Historic District Overlay have been determined to have historical significance by the Landmark Commission. When a property is designated as HD-3, the designation may apply to the entire parcel on which the property is located.

Section 29. That Section 150.345.5(C), Historic Overlay Districts, Activities Governed, of the Revised Code of General Ordinances, is amended as follows:

- (C) HD-3 Historic District Overlay. Any request for a demolition permit will require a Certificate of Appropriateness from the Landmark Commission. The Landmark Commission will review the request in accordance with sub-section 150.345.9, Removal of a Structure.

Section 30. That Section 150.345.7(A)(4), Historic Overlay Districts, Class of Architectural Modifications, Major Modifications, of the Revised Code of General Ordinances, is amended as follows:

- (4) Installation of new signage or a wall mural.

Section 31. That Section 150.345.14(B)(4), Historic Overlay Districts, Signs, Permitted Signs, of the Revised Code of General Ordinances, is amended as follows:

- (4) Short-term or temporary signs are permitted and no Certificate of Appropriateness is required, provided, they are only displayed for a maximum of seven consecutive days in each 90 day period, have a maximum size of 20 inches by 30 inches and only one such sign may be displayed. Wall murals shall not be considered short-term or temporary signs.

Section 32. That Section 150.345.20(B)(1), Historic Overlay Districts, Review by Landmark Commission, of the Revised Code of General Ordinances, is amended as follows:

- (1) The Secretary of the Landmark Commission shall notify, in writing, the applicant, as well as the owner(s) of the subject property, of the time and place of the hearing not less than seven (7) days before the date of the hearing. No other notice shall be required.

Section 33. That Section 150.345.21, Historic Overlay Districts, Appeal of Landmark Commission Decision, of the Revised Code of General Ordinances, is amended as follows:

If the application is denied by the Landmark Commission, the applicant or any interested party of record may request a hearing before the Board of Zoning Appeals within fourteen (14) days following the date of decision in the manner provided for in Section 150.120, Appeals and Variances. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the BZA, after notice of appeal has been filed with him/her, that by reason of facts stated in the certificate a stay would, in his/her opinion, cause imminent peril to life or property. In such case, the proceedings shall not be stayed.

Using only the standards set forth in Section 150.345, the Board of Zoning Appeals may affirm, reverse, or remand, in whole or in part, the decision of the Landmark Commission, except that a decision to reverse shall require the concurrence of a majority of the appointed members and shall be based on one of the following findings:

- (A) That the Landmark Commission erred in its application of the Architectural Design Standards; or
- (B) That the Landmark Commission committed procedural error which substantively affected the rights of the applicant or the rights of any interested party of record to a Certificate of Appropriateness.

Section 34. That Section 150.365.1(D), Park/Open Space District, Purposes, of the Revised Code of General Ordinances, is amended as follows:

- (D) To accommodate a wide variety of private, public and quasi-public open spaces, institutions, and facilities, including parks, wooded and natural habitats, golf courses, cemeteries, recreation/sports facilities and concessions, and agricultural land. These areas provide cultural and recreation opportunities; protect and preserve natural and scenic areas; protect sensitive natural resource areas; and offer refuge from the built, urban environment.

Section 35. That Schedule 150.365.2, Park/Open Space District, Permitted Uses, Permitted Uses in the Park/Open Space District, of the Revised Code of General Ordinances, is amended as shown in Exhibit H, attached hereto and incorporated herein.

Section 36. That Section 150.375, Sections 150.375.1 through 150.375.6 inclusive, Graphics Overlay Districts, of the Revised Code of General Ordinances, is repealed in its entirety.

Section 37. That Section 150.420.1(A)(1), (2) and (3), Supplemental District Regulations, Bee Keeping, Number, Locations and Setbacks, and Fences and Shrubs, of the Revised Code of General Ordinances, are amended as follows:

(A) In Residential Districts, the following regulations shall apply.

(1) Number. No beehive shall be kept on a zoning lot less than 3,000 square feet in area. A maximum of two hives are permitted on zoning lots between 3,000 and 7,000 square feet in area. Additional hives may be added at the rate of one (1) hive for every additional 3,000 square feet of lot area.

(2) Locations and Setbacks. No beehive shall be kept closer than ten (10) feet from any lot line and ten (10) feet from a dwelling or the permitted placement of a dwelling on another lot. No beehive shall be kept in a required front setback or corner side setback. No hive shall be placed within thirty (30) feet of any public sidewalk or roadway. The front of any beehive shall face away from the property line of the residential lot closest to the beehive.

Rooftop hives shall be setback six (6) feet from the edge of a roof. Hives located within twenty (20) feet of a door or window of an abutting lot must face away from such doors or windows or a flyway barrier as outlined in 150.420.1(A)(3) shall be applied.

(3) Fences and Shrubs. A solid fence or dense living hedge at least six (6) feet in height shall be placed along the side or rear property line for any hive within ten (10) feet of the lot line. The solid fence or dense living hedge shall extend at least twenty (20) feet on either side of the hive. A "flyway barrier" consisting of solid fence or dense living hedge shall be required along the property line if the front of the beehive is located within twenty-five (25) feet from any lot lines. No flyway barrier shall be required for a beehive that is located on a porch or balcony at least ten (10) feet above grade, except if such porch or balcony is located less than ten (10) feet from a property line.

Rooftop hives located within twenty (20) feet of a door or window of an abutting lot shall provide a six (6) feet high flyway barrier comprised of a lattice fence, dense living hedge, or similar material. The flyway barrier must be established in front of the opening of the beehive such that the bees fly upward and away from neighboring properties. The flyway barrier shall be located within three (3) feet of the front of the beehive and shall extend at least two (2) feet in width on either side of the front of the beehive.

Section 38. That Section 150.420.2(G), Supplemental District Regulations, Performance Standards, Odors, of the Revised Code of General Ordinances, is amended as follows:

- (G) Odors. No use shall emit mañodorous gas or matter that is discernible on any adjoining lot or property. No use shall allow for the bedding, fur, feathers, feces, and/or urine of domestic animals to collect or remain on the premises whereby noxious odors or offensive smells are generated and discernable on any adjoining lot or property.

Section 39. That Section 150.445(C), Supplemental District Regulations, Vacation of Rights-of-Way, Expiration of Conditions, of the Revised Code of General Ordinances, is amended as follows:

- (C) Expiration of Conditions. Conditions established by the Plan Board shall be valid for a period of twelve (12) months or any other period of time established by the Plan Board. The Secretary of the Plan Board may grant one twelve (12) month extension upon written request, without action by the Plan Board, provided the Board is notified of the extension.

Section 40. That Section 150.558, Conditional Use and Specific Use Regulations, Finality of Decisions, of the Revised Code of General Ordinances, is amended as follows:

Decisions by the Board of Zoning Appeals granting or denying a conditional use shall be final subject only to judicial review in accordance with law. If judicial review is sought, such appeal shall be filed within thirty (30) days of the decision by the Board of Zoning Appeals. Unless prohibited by law, the City of Dayton may seek judicial review of decisions by the BZA.

Section 41. That Section 150.565.15, Crematorium, Incinerator, of the Revised Code of General Ordinances, is amended as follows:

The specific regulations for a crematorium/incinerator, except those accessory to funeral homes, shall be as follows:

- (A) The minimum lot size shall be ten (10) acres.
- (B) Such uses shall be located on an arterial or higher street classification.
- (C) Such uses shall obtain all required permits and approvals from the State of Ohio and/or any other applicable permitting authority. All documentation submitted to these authorizes, to obtain approval, shall also be submitted as part of the application for a conditional use permit.

- (D) The structure housing the crematorium and the incinerator shall be setback a minimum of 1000 feet from any property line that is adjacent to a residential zoning district boundary, a residential use, a school, or a park. If the facility is not adjacent to these uses or zoning districts, the structure housing the crematorium and the incinerator shall be setback 300 feet from all lot lines.
- (E) Within the setback required in the sub-section 150.565.15 (D) above, a buffer yard, with a minimum width of fifty (50) feet, shall be planted with large and small evergreen trees and one row of evergreen shrubs. The large evergreen trees shall be at least six (6) feet in height when planted and allowed to grow to a minimum of ten (10) feet. The small evergreen trees shall be at least four (4) feet in height when planted and permitted to grow to a minimum of six (6) feet.
- (F) All outdoor activities and storage associated with these facilities shall be entirely enclosed within a solid wall or fence, which includes solid gates. The minimum height is ten (10) feet. Items shall not be piled or stored higher than the top of the fence or wall and in no case shall stored items be visible from adjacent properties.
- (G) Applications for incinerators shall include all of the information required for a conditional use and such additional information as may be required to evaluate the proposal and mitigate adverse impacts, and the following:
  - (1) A description of the sources of the waste to be disposed of and a detailed description of the physical and chemical properties of both the waste and its degradation products which may cause or contribute to harm to the public health, the environment, or which may otherwise create a nuisance.
  - (2) A description of all of the land necessary, required or to be used in any way for the facility or site, including but not limited to, buffers, monitoring/control stations, sedimentation ponds, leachate management system and all land shall be included in the conditional use application.
  - (3) An environmental impact statement that includes an analysis of all physical, social, cultural and economic components of the environment and actions necessary to mitigate adverse impacts.
  - (4) A description, plan and timetable for routine maintenance and cleaning of access routes and other off site facilities and improvements required to bring access routes and facilities up to City standards.
  - (5) A description, plan and timetable for site preparation activities, including, but not limited to time, schedules, hours of operation,

mitigating actions to ensure compliance with all applicable federal, state and local construction standards.

- (6) A description, plan and timetable for construction and/or development activities, including, but not limited to time schedules, hours of operation, mitigating actions to ensure compliance with all applicable federal, state and local construction standards.
- (7) A description, plan and timetable for operating and closure activities, including, but not limited to, time schedules, hours of operation, mitigating actions to ensure compliance with all applicable federal, state and local construction standards.
- (8) A description, plan and timetable for post-closure activities and monitoring, if applicable.

Section 42. That Section 150.565.17(A), Conditional Use and Specific Use Regulations, Day Care Center, Adult or Child, General Requirements, of the Revised Code of General Ordinances, is amended as follows:

(A) General Requirements:

- (1) A copy of the site plan and descriptive plan of operation, as submitted to the applicable state agency for licensing, shall be submitted with the application for a Conditional Use Permit or a Site Design Plan.
- (2) A drop-off/pick-up location, which will not impede traffic on or off the site, shall be provided to insure pedestrian safety.
- (3) All fencing shall comply with the requirements of the zoning district in which the facility is located.
- (4) Whenever an application is made in any **Residential District** for a building permit or certificate of occupancy for a day care center for thirty or more children and/or adults located in a school, community center, church, mosque, chapel, temple, synagogue, or public housing development, no occupancy certificate shall be issued until the applicant complies with the Conditional Use provisions in this Section, in addition to any and all other provisions of the Code as may be applicable.

Section 43. That Section 150.565.22(A), Conditional Use and Specific Use Regulations, Family Day Care Home for Seven (7) to Twelve (12) Children, General Requirements, of the Revised Code of General Ordinances, is amended as follows:

(A) General Requirements

- (1) A copy of the site plan and descriptive plan of operation, including procedures for dropping off and picking up children, submitted to the applicable State agency shall be submitted as part of the application.

Section 44. That Section 150.565.37(G), Conditional Use and Specific Use Regulations, Motor Vehicles Sales and Rental (Including Boats), of the Revised Code of General Ordinances, is amended as follows:

- (G) With the exception of areas devoted to motor vehicle sales and areas used for the outdoor storage of vehicles, vehicle parking areas shall comply with Section 150.800, Landscaping and Screening Regulations.

Section 45. That Section 150.565.42(E), Conditional Use and Specific Use Regulations, Parking Lot, Restricted, of the Revised Code of General Ordinances, is amended as follows:

- (E) All restricted parking lots with more than 10 parking spaces shall provide side and rear setbacks abutting a residential district of at least ten (10) feet. Front setbacks shall conform to the requirements of the underlying zoning district or ten (10) feet, whichever is greater. Screening shall be provided in accordance with the requirements in subsection 150.800.9 (B), Screening. If the parking lot does not abut a residential zoning district, the applicable parking setback requirements for the underlying district shall apply for the side and rear setbacks.

Section 46. That Section 150.565.53(A)(4), Conditional Use and Specific Use Regulations, Restaurant, Outdoor Dining, of the Revised Code of General Ordinances, is amended as follows:

- (4) The operators of outdoor dining shall maintain a clean, litter-free, and well-kept appearance within and immediately adjacent to the outdoor dining area.

Section 47. That Sections 150.565.80.5(A) and (E), Conditional Use and Specific Use Regulations, Wall Mural, of the Revised Code of General Ordinances, are amended as follows:

- (A) Wall murals shall not be permitted on the front façade of a building. In the HD-1 and HD-2 Historic Overlay Districts, wall murals shall conform to the requirements of Section 150.345.
- (E) The application for a wall mural shall include:

- (1) A color photographic or digital image of the proposed wall location in the context of adjoining properties, and a color image depicting the proposed wall mural to represent with general accuracy the appearance of the wall with the addition of the mural.
- (2) A description of the materials to be used.
- (3) Written permission from the owner of the building or structure on which the wall mural will be placed.

In lieu of written permission from the owner of the building or structure on which the wall mural will be placed, notice of intent to create the wall mural shall be mailed by certified mail and regular mail at least thirty days (30) days prior to the date of the creation of the mural to the owner of record of the property as it appears on the County Auditor's current list. The owner of record shall have 30 days from the issuance of the certified mail and regular mail to contact the Zoning Administrator and grant permission for the wall mural or deny permission for the wall mural. Should the owner of record not contact the Zoning Administrator during the thirty (30) day period, the Zoning Administrator may consider permission granted.

- (4) Any other information the Zoning Administrator deems necessary to review and evaluate the request.

Section 48. That Section 150.600.7(J), Regulations for Wireless Telecommunications Facilities, Standards Applicable to All Wireless Telecommunications Facilities, of the Revised Code of General Ordinances, is amended as follows:

- (J) All FAA regulations addressing safety marking and obstruction lighting shall be followed when necessary. Lighting for security purposes shall be permitted at the base of the wireless telecommunication tower.

Section 49. That Section 150.700.3, Off-Street Parking & Loading Regulations, Units of Measure, of the Revised Code of General Ordinances, is amended as follows:

In computing the number of parking spaces required by this Code, the following rules shall apply. Some parking requirement reductions are permissible pursuant to subsection 150.700.11:

- (A) Floor Area. Where floor area is designated as the standard for determining parking space requirements, "floor area" shall mean gross floor area, or the total area of all floors measured from the exterior faces of the building, unless otherwise specified. Any floor or part thereof used for storage or

packaging of merchandise as well as any kitchen areas, not to exceed twenty (20) percent of the total floor area, may be excluded.

- (B) Design Capacity. Where seating capacity is the standard for determining parking space requirements, “design capacity” shall mean the number of persons that can be legally accommodated according to the City of Dayton’s Building Code in the primary assembly room.
- (C) Employees. Where number of employees is the standard for determining parking space requirements, “employees” shall mean the maximum number of employees on any one shift plus one half of the maximum number of employees on a subsequent shift.
- (D) Fractional Numbers. Where the computation of parking spaces results in a fractional number, the number shall be rounded to the next higher whole number.
- (E) Parking Requirements for Uses Not Specified. When the off-street parking requirements for a use are not specifically defined herein, the parking facilities for such use shall be determined by the Zoning Administrator so as to be sufficient to meet all the parking needs of the proposed use, based on the parking standards for a specific use listed in Schedules 150.700.4 – 150.700.10 that the Zoning Administrator determines to be the most similar to the proposed use.

Section 50. That Schedule 150.700.7, Off-Street Parking & Loading Regulations, Off-Street Parking Requirements for Non-Commercial Uses in Commercial, Mixed-Use Hub and Transitional Districts, of the Revised Code of General Ordinances, is amended as shown in Exhibit I, attached hereto and incorporated herein.

Section 51. That Section 150.800.1, Landscaping & Screening Regulations, Purpose, of the Revised Code of General Ordinances, is amended as follows:

The preservation of existing trees and vegetation, as well as the planting of new trees and vegetation, can significantly add to the quality of the physical environment of the City of Dayton. The regulations contained below are designed to provide for the health, safety, and welfare of the residents of the City by:

- (A) Promoting the proper utilization of landscaping and screening as a buffer between certain land uses and to minimize the possibility of nuisances including potential noise, glare, and the visual clutter associated with parking and service areas;
- (B) Reducing the hazards of flooding and aid in the control of erosion and storm water runoff;

- (C) Providing physiologically, psychologically, sociologically, and aesthetically necessary counterpoints to the man-made urban environment;
- (D) Protecting, preserving, and promoting the aesthetic character valued by the residents of the City of Dayton; and
- (E) Restoring, protecting, preserving, and increasing a diverse, healthy tree canopy throughout the City of Dayton.

Section 52. That Section 150.800.5(A), Landscaping & Screening Regulations, Landscaping Requirements Along Street Frontages, Species and Location Requirements, of the Revised Code of General Ordinances, is amended as follows:

(A) Species and Location Requirements.

- (1) Trees shall be limited to species characterized as hardy, long-lived shade trees. Prohibited tree species are listed in Schedule 150.800.7. The Director of Public Works may prohibit tree species in addition to those listed in Schedule 150.800.7.
- (2) One tree shall be provided for every thirty (30) linear feet of frontage, or fraction thereof, along each road.
- (3) Trees are to be planted within ten (10) feet of the rights-of-way of the road or roads within and abutting the development. In those Zoning Districts with no required front or side setbacks, the street trees shall be located in the street right-of-way.
- (4) The planting of trees in the street right-of-way underneath overhead primary electric distribution lines is discouraged.
- (5) In those locations where an overhead primary electric distribution line exists, trees should be planted a minimum of ten (10) feet away from the overhead primary electric distribution line. If this is not possible due to an insufficient setback or right-of-way, the Zoning Administrator, Board of Zoning Appeals, or the Plan Board, whichever is applicable, may waive the required trees or request that the required trees be planted along a nearby street right-of-way or public park. Such alternate location should be approved by the Department of Public Works.
- (6) In the Downtown Districts, the Mature Neighborhood Commercial District, and the Mature General Commercial District, if the street right-of-way lacks a tree lawn, street trees shall be planted in sidewalk pits. The Division of Civil Engineering shall approve the location of these pits. The

minimum dimensions for such pits shall be 5 feet X 5 feet. If the sidewalk is too narrow to permit sidewalk pits of such a size, the Zoning Administrator may grant an exception to a dimension that would both accommodate a street tree and permit pedestrian traffic.

- (7) Each tree at the time of installation shall have a minimum caliper of between 2.0 and 2.5 inches and a clear trunk height of between five (5) and six (6) feet.
- (8) In those instances where eight (8) or more trees are to be planted, there shall be a minimum diversity of two (2) tree species planted at a minimum 3:2 ratio. The Zoning Administrator and the Director of Public Works may agree to waive this requirement if a single tree species is deemed an important design feature.
- (9) Trees shall be planted an adequate distance from intersections so that at full maturity such planting shall comply with sub-section 150.410, Visibility at Intersections, to ensure the unobstructed visibility of motorists and pedestrians.

Section 53. That Section 150.800.6(B), Landscaping & Screening Regulations, Maintenance & Removal of Trees Within the Street Right-of-Way, Removal, of the Revised Code of General Ordinances, is amended as follows:

- (B) Removal. Trees within street rights-of-way shall not be removed without written approval from the Department of Public Works. Any tree that is removed shall be replaced with the size and species of tree approved by the Department of Public Works.

Section 54. That Section 150.800.7, Landscaping & Screening Regulations, Recommended Tree Species and Quality of Plant Materials, of the Revised Code of General Ordinances, is amended as follows:

**150.800.7 Quality of Plant Materials and Prohibited Tree Species**

- (A) Evergreen trees should only be used for screening purposes and shall not be permitted in any public street right-of-way. Evergreen trees shall only be planted in planting areas with sufficient space to permit the trees to grow to maturity.
- (B) All plant materials shall be equal to or better than the requirements of the American Standard for Nursery Stock, American Association of Nurserymen (AAN Standards). All plants shall be typical of their species and variety, shall have a normal habit of growth, and shall be first quality, sound, vigorous, well-branched and with healthy, well-

furnished root systems. They shall be free of disease, insect pests and mechanical injuries.

- (C) Non-ornamental fruit bearing trees shall not be planted as street trees.
- (D) Schedule 150.800.7 – Prohibited Tree Species

The trees in Schedule 150.800.7 are prohibited. The Director of Public Works may prohibit tree species in addition to those listed in Section 150.800.7.

<b>Schedule 150.800.7 Prohibited Tree Species*</b>	
<b>BOTANICAL NAME</b>	<b>COMMON NAME</b>
Acer saccharinum	Silver maple
Ailanthus altissima	Tree-of-heaven
Elaeagnus angustifolia	Russian-olive
Fraxinus spp.	Ash (All varieties)
Lonicera maackii	Bush honeysuckle
Morus spp.	Mulberry (All varieties)
Pyrus calleryana	Flowering pear (All varieties)
Populus spp.	Poplar (Excluding Tulip poplar)
Salix babylonica	Weeping willow (All varieties)
Ulmus pumila	Siberian elm
* The Director of Public Works may prohibit tree species in addition to those listed in this Schedule.	

Section 55. That Section 150.800.8(D)(1)(a), Landscaping & Screening Regulations, Screening, Screening, of the Revised Code of General Ordinances, is amended as follows:

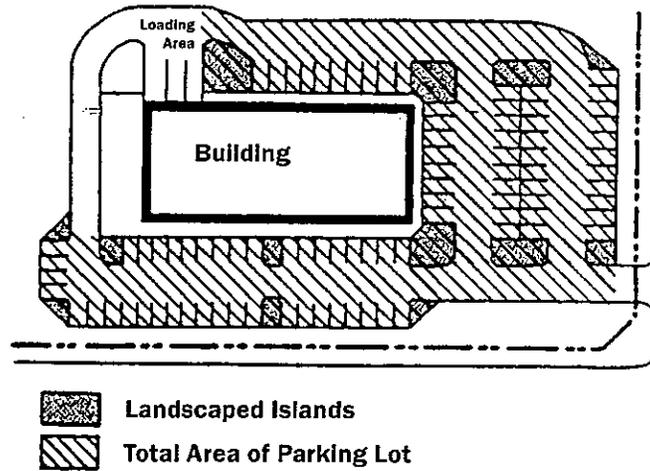
- (1) Screening Materials. Screening design and development shall be compatible with the existing and proposed land use and development character of the surrounding land and structures. Screening shall consist of one or more of the following:
  - (a) A dense vegetative planting incorporating trees and/or shrubs of a variety which shall be equally effective in winter and summer. Trees and/or shrubs shall be adequately spaced to form a solid, continuous visual screen within three (3) years after the initial installation. Specific exceptions to this requirement may be granted as detailed in sub-section 150.800.8(C), Modifications to Screening Requirements.

Section 56. That Section 150.800.9(A), Landscaping & Screening Regulations, Screening and Landscaping of Parking Lots, Landscaping on the Interior of Parking Lots, of the Revised Code of General Ordinances, is amended as follows:

(A) Landscaping on the Interior of Parking Lots. With the exception of motor vehicle sales lots and areas used for the outdoor storage of vehicles, interior landscaping of parking lots shall be provided in accordance with the following requirements:

- (1) For any parking area designed to accommodate twenty-five (25) or more vehicles, a minimum of 5 percent (5%) of the parking lot shall be planted as landscaped island areas.
  - (a) Landscaped islands shall be developed and distributed throughout the parking lot to:
    - (i) Define major circulation aisles and driving lanes; and
    - (ii) Provide visual and climatic relief from broad expanses of pavement.
  - (b) Each island shall be a minimum of nine (9) feet in any horizontal dimension;
  - (c) Within the landscaped islands, one (1) shade tree shall be provided for every ten (10) parking spaces. Each tree, at the time of installation, shall have a minimum caliper of 2.5 inches and a clear trunk height of at least six (6) feet.
  - (d) Shrubs or low, spreading plant materials may also be planted within required landscaped islands in such a way that there is no impairment to the visibility of motorists or pedestrians.
  - (e) Landscaped areas adjacent to the perimeter of the parking area shall not be counted as interior parking lot landscaped areas.
- (2) For the purpose of this Section, the area of a parking lot shall be the total vehicular surface area within the perimeter of the parking lot, including the landscaped islands, parking spaces and all circulation aisles except those with no parking spaces or landscaped islands located on either side. See Figure 1, Parking Lot Interior Calculation.

Figure 1. Parking Lot Interior Calculation



Section 57. That Section 150.900.2, Sign Regulations, Definitions, Definitions (DD) and (EE) of the Revised Code of General Ordinances are amended as follows, and Definition (HH), of the Revised Code of General Ordinances, is enacted as follows:

- (DD) Sign, Temporary means any sign that is designed to be used only temporarily and is not intended to be permanently attached to a building, structure, or permanently installed in the ground. Temporary signs may be displayed as window signs. A wallscape shall not be considered a temporary sign.
- (EE) Sign, Wall means a building sign that is painted on, or attached to, a building wall, with the exposed sign face in a plane parallel to the plane of the wall, that does not extend more than twelve (12) inches there from, and that does not project above the roofline or beyond the corner of the building. A wall sign shall not be considered a wallscape.
- (HH) Wallscape means a message and/or graphic that is printed on vinyl or similar material and is applied to the wall surface of a building for no more than 180 days. A wallscape may include on-premise or off-premise advertising messages. A wallscape shall not be considered a temporary sign, a wall sign, or a building sign.

Section 58. That Section 150.900.6, Sign Regulations, Signs in Downtown Districts, of the Revised Code of General Ordinances, is amended as follows:

**150.900.6 Signs and Wallscapes in Downtown Districts**

- (A) Schedule 150.900.6 of Signs and Wallscapes in Downtown Districts. All signs and wallscapes in downtown districts shall conform to the

maximum area, height and quantity regulations set forth in Schedule 150.900.6.

<b>Schedule 150.900.6 Signs and Wallscapes in Downtown Districts</b>	
<b>(1) Building Signs</b>	
(a) Building Sign	1.5 sf <sup>1</sup>
(b) Projecting Sign	6.0 sf <sup>2</sup>
(c) Window Sign	20% of window area
<b>(2) Freestanding Signs</b>	
(a) Freestanding Sign	
(i) Maximum Area	25.0 sf
(ii) Maximum Height	6.0 ft.
(iii) Maximum Quantity	1
(b) Pedestrian Sign <sup>3</sup>	
(i) Maximum Area	12 sf
(ii) Maximum Height	4.0 ft.
(iii) Maximum Quantity	1 per building unit
(c) Entrance or Exit Sign	
(i) Maximum Area	6.0 sf
(ii) Maximum Height	4.0 ft.
(iii) Maximum Quantity	1 per curb cut
<b>(3) Wallscapes</b>	Only permitted in CBD; No maximum area <sup>4</sup>
<sup>1</sup> per lineal foot of the principal building's primary frontage	
<sup>2</sup> See sub-section (C) below	
<sup>3</sup> See sub-section 150.900.13 (C), Pedestrian Signs	
<sup>4</sup> See sub-section 150.900.13 (E), Wallscapes	

(B) Additional Building Signs for Multiple Story Buildings in Downtown Districts. In addition to the building signs permitted in Schedule 150.900.6, one (1) additional sign is permitted on any one (1) of the building's primary or secondary frontages according to the following.

- (1) For a building with two (2) floors, the additional permitted sign area is forty (40) square feet.
- (2) This additional sign area may be increased by ten (10) square feet for each additional floor in the building.
- (3) The additional sign area permitted by this Section shall be placed above the first floor of the building or its related parking structure.

(C) Projecting Signs. Each commercial use is permitted one (1) projecting sign in addition to the maximum building signage to which the use is otherwise permitted. In addition to the maximum area set forth in Schedule 150.900.6, projecting signs shall further conform to the following regulations:

- (1) A space of not less than six (6) inches shall be preserved between the wall and the nearest edge of the sign face.

- (2) A projecting sign may be permitted to extend over the public right-of-way provided the outer most edge of such sign is a minimum of two (2) feet from the back of the curb or the street edge, whichever is applicable.
- (3) Projecting signs shall have a maximum height of twenty (20) feet and a minimum clearance of ten (10) feet from the ground to the bottom of the sign, except when the projecting sign is located above a landscaped area or other area that does not permit pedestrian traffic beneath the sign. Projecting signs that project over an alley shall have a minimum clearance of fourteen (14) feet from the ground to the bottom of the sign.
- (4) Illumination. Projecting signs shall be illuminated only in compliance with sub-section 150.900.13(B), Illumination of Permanent and Temporary Signs.

Section 59. That Section 150.900.9.5, Sign Regulations, Signs in the Well Head Operation (WO) District, of the Revised Code of General Ordinances, is enacted as follows:

**150.900.9.5 Signs in the Well Head Operation (WO) District**

All signs in the Well Head Operation (WO) District shall comply with the regulations for the Eclectic (ENC and EGC) Commercial Districts contained in Section 150.900.7 as well as the additional regulations of Section 150.900.

Section 60. That Section 150.900.13(E), Sign Regulations, Supplemental Sign Standards; of the Revised Code of General Ordinances, is enacted as follows:

- (E) Wallscape. Where wallscape are permitted, the following regulations apply:
  - (1) A wallscape shall not obscure or shield from public view windows or architecturally significant features of any building.
  - (2) A wallscape shall not have proportions that are similar to traditional billboards, unless the Zoning Administrator determines that such proportions are necessary to complement the building and enhance existing architecture.

Acceptable proportions for a wallscape are a length equal to or lesser than 1.5 times the height, or a length equal to or greater than four times the height.
  - (3) A wallscape shall not cover more than twenty five (25) percent of the primary building frontage, unless the Zoning Administrator

determines that allowing more than twenty five (25) percent coverage will not have a substantial negative impact on the design and visual impact of the primary building frontage.

- (4) A wallscape shall not be allowed to fall into a state of disrepair or deterioration.
- (5) A wallscape shall be removed within 180 days of installation, after which the same wallscape shall not be installed at the same location for 90 additional days.

Section 61. That Section 150.900.18(B), Sign Regulations, Regulations for Non-Conforming Signs, Alteration and Removal of Non-Conforming Signs, of the Revised Code of General Ordinances, is amended as follows:

(B) Alteration and Removal of Non-Conforming Signs.

- (1) Non-conforming signs shall be removed and any subsequent modification or replacement, excluding maintenance pursuant to sub-section 150.900.15(D), shall conform to all requirements of this Section:
  - (a) When more than fifty (50) percent of the physical replacement value of the sign has been destroyed or taken down, determination of said physical replacement value shall not include consideration of such factors as the geographic location of the sign or its non-conforming status.
  - (b) When the use, to which the non-conforming sign is accessory, is abandoned for ninety (90) consecutive days, by the owner shall remove the sign from the premises within ten (10) days after the use is deemed abandoned.
- (2) A non-conforming sign shall not be altered or modified other than to comply with this Section except that:
  - (a) When the existing use has new ownership which results in a change in the name of the use or business on the property or when the space is reoccupied by a similar use and the new occupant requires no external building or site renovation, then the message of a non-conforming sign may be changed.
  - (b) An existing sign pursuant to this sub-section may be changed by replacing a sign panel or by repainting a sign face only. Such alterations shall not require changes to

the structure, framing or erection or relocation of the sign unless such changes conform to this Section.

- (3) Subject to the provisions of this Section, non-conforming signs may be repaired so long as the cumulative cost of such work does not exceed within any twelve (12)-month period fifty (50) percent of the sign's physical replacement value. When determining said physical replacement value, factors such as the geographic location of the sign or its non-conforming status shall not be considered.

Section 62. That Section 150.925.5, Off-Premise Sign Regulations, Non-Conforming Off-Premise Signs, of the Revised Code of General Ordinances, is amended as follows:

Any off-premise sign not installed, constructed, altered, repaired, replaced, located or relocated in accordance with 150.925.4 (A) is a non-conforming off-premise sign and shall be repaired, relocated or replaced only in accordance with 150.925.6 through 150.925.14 or removed in accordance with 150.900.18.

The conversion of an off-premise sign with any non-conforming characteristic to an electronic off-premise sign shall be prohibited regardless of the zoning district in which it is located.

Section 63. That existing Sections 150.110.4(H); 150.110.5(D)(1); 150.115.4(B); 150.120.7; 150.120.11; 150.130.3; 150.140.4(A) and (B); 150.200.2, Definitions (38), (39), (40), (41) (41A), (92), (125), (137A) and (163); 150.300.1(D); Schedule 150.305.2; Section 150.305.5(F); Schedule 150.320.2; Section 150.320.8(B)(4)(b)(i); Schedules 150.320.10 and 150.325.2; Section 150.325.8(B)(4)(b)(i); Schedule 150.330.2; Sections 150.330.5(B) and (C); 150.330.6(D)(4)(b)(i); Schedule 150.335.2; Sections 150.335.5(A); 150.335.6(A); Schedule 150.340.2; Sections 150.345.1(E); 150.345.2; 150.345.3; 150.345.4(C); 150.345.5(C); 150.345.7(A)(4); 150.345.14(B)(4); 150.345.20(B)(1); 150.345.21; 150.365.1(D); Schedule 150.365.2; Sections 150.375 (Sections 150.375.1 through 150.375.6); 150.420.1(A)(1), (2) and (3); 150.420.2(G); 150.445(C); 150.558: 150.565.15; 150.565.17(A); 150.565.22(A); 150.565.37(G); 150.565.42(E); 150.565.53(A)(4); 150.565.80.5(A) and (E); 150.565.80 (A) and (E); 150.600.7(J); 150.700.3; Schedule 150.700.7; Sections 150.800.1; 150.800.5(A); 150.800.6(B); 150.800.7; 150.800.8(D)(1)(a); 150.800.9(A); 150.900.2: 150.900.6; 150.900.18(B); and 150.925.5 of the Revised Code of General Ordinances, as previously enacted, are repealed.

Section 64. That for the reasons stated in the preamble hereof, the Commission declares this ordinance to be an emergency measure that shall be effective upon passage.

Passed by the Commission.....2016

Signed by the Mayor.....2016

\_\_\_\_\_  
Mayor of the City of Dayton, Ohio

Attest:

\_\_\_\_\_  
Clerk of the Commission

Approved as to form:

  
\_\_\_\_\_  
City Attorney

# Exhibit A

## Schedule 150.305.2 Permitted Uses in Single-Family Residential Districts

	SR-1	SR-2	ER-3	ER-4	MR-5
	Suburban SF Residential	Suburban SF Residential	Eclectic SF Residential	Eclectic SF Residential	Mature SF Residential
<b>(1) Residential</b>					
(a) Single-family dwelling, detached	P	P	P	P	P
(b) Single-family dwelling, detached cluster	PD <sup>1</sup>	PD <sup>1</sup>			
(c) Single-family dwelling, attached	PD <sup>7</sup>	PD <sup>7</sup>	C	C	C
(d) Two-family dwelling	PD	PD	P*	P*	P*
(e) Multi-family dwelling					C <sup>2</sup>
(f) Family day care home for 1-6 children (type B) See subsection 150.305.7	P	P	P	P	P
(g) Family day care home for 7-12 children (type A)	C	C	C	C	C
<b>(2) Group Residential</b>					
(a) Adult care facility for 3-5 persons	P	P	P	P	P
(b) Residential facility for 5 or fewer persons	P	P	P	P	P
(c) Residential facility for 6-8 persons	P	P	P	P	P
<b>(3) Residential/Work</b>					
(a) Home occupation	A <sup>3</sup>	A <sup>3</sup>	A <sup>3</sup>	A <sup>3</sup>	A <sup>3</sup>
(b) Live-work unit			C	C	C
<b>(4) Community Facilities/Institutions</b>					
(a) Cemetery	C	C	C	C	C
(b) Church/religious assembly	C	C	C	C	C
(c) Community center	C	C	C	C	C
(d) Library	C	C	C	C	C
(e) Public safety facility	C	C	C	C	C
(f) Utility substation/distribution facility, indoor	C	C	C	C	C
(g) Utility substation/distribution facility, outdoor	C	C	C	C	C

## Exhibit A

### Schedule 150.305.2 Permitted Uses in Single-Family Residential Districts

	SR-1	SR-2	ER-3	ER-4	MR-5
	Suburban SF Residential	Suburban SF Residential	Eclectic SF Residential	Eclectic SF Residential	Mature SF Residential
<b>(5) Educational Facilities</b>					
(a) Day care center, adult or child	C <sup>13</sup>	C <sup>13</sup>	C <sup>13</sup>	C <sup>13</sup>	C <sup>13</sup>
(b) School (public/private), elementary/secondary	C	C	C	C	C
<b>(6) Recreation/Open Space</b>					
(a) Campground	C				
(b) Golf/swim/tennis club	C	C	C	C	C
(c) Park/playground	P	P	P	P	P
(d) Riding stable	C				
<b>(7) Office/Professional Services</b>					
(a) Office, administrative/professional			C <sup>2</sup>	C <sup>2</sup>	C <sup>2</sup>
<b>(8) Lodging</b>					
(a) Bed and breakfast	C	C	C	C	C
<b>(9) Other</b>					
(a) Bee keeping	P <sup>14</sup>	P <sup>14</sup>	P <sup>14</sup>	P <sup>14</sup>	P <sup>14</sup>
(b) Community garden	P*	P*	P*	P*	P*
(c) Harvesting	P*	P*	P*	P*	P*
(d) Parking lot, restricted	C	C	C	C	C
(e) Telecommunication facility	See Section 150.600	See Section 150.600	See Section 150.600	See Section 150.600	See Section 150.600
<b>(10) Accessory Uses</b>					
(a) Accessory buildings	A <sup>5</sup>	A <sup>5</sup>	A <sup>5</sup>	A <sup>5</sup>	A <sup>5</sup>
(b) Driveways	A <sup>5</sup>	A <sup>5</sup>	A <sup>5</sup>	A <sup>5</sup>	A <sup>5</sup>
(c) Fences, walls	A <sup>5</sup>	A <sup>5</sup>	A <sup>5</sup>	A <sup>5</sup>	A <sup>5</sup>
(d) Golf, swim, tennis club, private	A <sup>5</sup>	A <sup>5</sup>			
(e) Home occupation	A <sup>3</sup>	A <sup>3</sup>	A <sup>3</sup>	A <sup>3</sup>	A <sup>3</sup>
(f) Other accessory structures	A <sup>5</sup>	A <sup>5</sup>	A <sup>5</sup>	A <sup>5</sup>	A <sup>5</sup>
(g) Private swimming pools	A <sup>5</sup>	A <sup>5</sup>	A <sup>5</sup>	A <sup>5</sup>	A <sup>5</sup>
(h) Signs	A <sup>5,6</sup>	A <sup>5,6</sup>	A <sup>5,6</sup>	A <sup>5,6</sup>	A <sup>5,6</sup>
(i) Solar energy structure	A <sup>8</sup>	A <sup>8</sup>	A <sup>8</sup>	A <sup>8</sup>	A <sup>8</sup>
(j) Solar panel, building	A <sup>9</sup>	A <sup>9</sup>	A <sup>9</sup>	A <sup>9</sup>	A <sup>9</sup>
(k) Utility box	A <sup>10</sup>	A <sup>10</sup>	A <sup>10</sup>	A <sup>10</sup>	A <sup>10</sup>

# Exhibit A

## Schedule 150.305.2 Permitted Uses in Single-Family Residential Districts

	SR-1	SR-2	ER-3	ER-4	MR-5
	Suburban SF Residential	Suburban SF Residential	Eclectic SF Residential	Eclectic SF Residential	Mature SF Residential
(l) Wind turbine	A <sup>11</sup>	A <sup>11</sup>	A <sup>11</sup>	A <sup>11</sup>	A <sup>11</sup>
(m) Windmill, micro	A <sup>12</sup>	A <sup>12</sup>	A <sup>12</sup>	A <sup>12</sup>	A <sup>12</sup>

**Notes to Schedule 150.305.2:**

<sup>1</sup> As further regulated by sub-section 150.565, Single-family Dwelling, Detached Cluster.

<sup>2</sup> Shall only be permitted in a non-residentially constructed building existing prior to August 1, 2006.

<sup>3</sup> As regulated by Section 150.440, Home Occupation Regulations.

<sup>4</sup> Reserved.

<sup>5</sup> See Section 150.305.5, Accessory Use Regulations

<sup>6</sup> As regulated by Section 150.900, Sign Regulations.

<sup>7</sup> As further regulated by sub-section 150.565, Attached Single-family Dwelling

<sup>8</sup> As further regulated by section 150.565, Solar energy structure

<sup>9</sup> As further regulated by section 150.565, Solar panel, building

<sup>10</sup> As further regulated by section 150.565, Utility box

<sup>11</sup> As further regulated by section 150.565, Wind turbine

<sup>12</sup> As further regulated by section 150.565, Windmill, micro

<sup>13</sup> Shall be considered an accessory use if it serves fewer than thirty (30) children or adults and takes place in a school, community center, or church/religious assembly with a capacity of over 100 persons. The requirements in section 150.565.17 (A) shall also apply.

<sup>14</sup> As regulated by Section 150.420.1.

P = Use permitted by right; PD = Permitted as part of a Planned Development; P\* = Use permitted by right as further regulated by Section 150.500, Conditional Uses and Specific Use Regulations; C = Conditional use; A = Accessory use;

Blank cell = Use not permitted in district

## Exhibit B

Schedule 150.320.2 PERMITTED USES IN DOWNTOWN DISTRICTS		
	UBD Urban Business District	CBD Central Business District
<b>(1) Residential</b>		
(a) Single-family dwelling, attached	P*	P*
(b) Multi-family dwelling	P*	P*
(c) Family day care home for 1-6 children (type B)	P	P
(d) Family day care home for 7-12 children (type A)	C	C
(e) Dwelling unit(s) on or above the first floor of a building	P	P
<b>(2) Residential/Work</b>		
(a) Home occupation	P <sup>1</sup>	P <sup>1</sup>
(b) Live-work unit	P*	P*
(c) Work-live unit	P	P
<b>(3) Community Facilities/Institutions</b>		
(a) Assembly hall/auditorium	P	P
(b) Church/religious assembly	P	P
(c) Congregate care facility/nursing home	P	
(d) Convention and exposition center	P	P
(e) Cultural institution	P	P
(f) Emergency housing	C	
(g) Hospital	C	C
(h) Jail		C
(i) Library	P	P
(j) Membership Clubs	P	P
(k) Protective care facility	C <sup>2</sup>	C <sup>2</sup>
(l) Public safety facility	P	P
(m) Transitional Housing	C <sup>7</sup>	C <sup>7</sup>
(n) Utility substation/distribution facility, indoor	P <sup>5</sup>	P <sup>5</sup>
(o) Utility substation/distribution facility, outdoor	C	C
<b>(4) Educational Facilities</b>		
(a) Day care center, child and adult	P	P
(b) School (public/private), college/university	P	P
(c) School (public/private), elementary/secondary	C	C
(d) School (public/private), specialty/personal instruction	P	P

## Exhibit B

Schedule 150.320.2 PERMITTED USES IN DOWNTOWN DISTRICTS		
	UBD	CBD
	Urban Business District	Central Business District
<b>(5) Recreation/Open Space</b>		
(a) Health club	P	P
(b) Park/playground	P	P
(c) Recreation facility, indoor	P	P
(d) Recreation facility, outdoor	C	C
(e) Sports facility	P*	P*
(f) Theater, outdoor		C
(g) Theater, indoor	P	P
<b>(6) Office/Professional Services</b>		
(a) Financial institution/bank	P	P
(b) Office – administrative/professional	P	P
(c) Office – medical/dental/health services	P*	P*
(d) Research/development facility, laboratory	P	P
<b>(7) Retail/Personal Services</b>		
(a) Animal hospital/clinic	P <sup>4</sup>	P <sup>4</sup>
(b) Animal boarding facility with outside run or kennels	C	
(c) Drive-thru facility	C	C
(d) Funeral home & related facilities	P	P
(e) Restaurant, indoor dining	P	P
(f) Restaurant, outdoor dining	P*	P*
(g) Retail establishment	P	P
(h) Service establishment, business	P	P
(i) Service establishment, personal	P	P
<b>(8) Lodging</b>		
(a) Bed & breakfast	P*	P*
(b) Hotel/motel	P	P
<b>(9) Motor Vehicle/Transportation</b>		
(a) Automobile service station	C	
(b) Equipment sales/rental/service (including agriculture implements, recreational vehicles and commercial motor vehicles.)	P*	
(c) Helicopter landing facility	C	C
(d) Motor vehicle repair (including boats)	C	
(e) Motor vehicle sales and rental (including boats)	C	C

## Exhibit B

Schedule 150.320.2 PERMITTED USES IN DOWNTOWN DISTRICTS		
	UBD	CBD
	Urban Business District	Central Business District
(f) Parking structure	C	C
(g) Railroad station	C	C
(h) Transit garage	C	
(i) Transit station	C	C
(j) Transit turnaround	C	C
(k) Vehicle fueling station	C	C
<b>(10) Storage and Distribution</b>		
(a) Outdoor storage: equipment/vehicles, general materials	P*	
(b) Self-storage facility, indoor	P*	C
(c) Trucking/motor freight terminal	C	
(d) Warehouse storage, indoor	P*	P*
(e) Wholesale sales and/or distribution, indoor	P	P
<b>(11) Industrial</b>		
(a) Manufacturing, light	P <sup>3</sup>	
(b) Manufacturing, light (New Construction of Principal Building)	C	
(c) Microbotler	P*	P*
(d) Recycling collection facility, indoor	C	
<b>(12) Other</b>		
(a) Bee keeping	P <sup>9</sup>	P <sup>9</sup>
(b) Community garden	P*	
(c) Nightclub	P	P
(d) Plant nursery/greenhouse	P	P
(e) Solar energy structure	C	C
(f) Solar panel, building	P*	P*
(g) Telecommunication facility	See Section 150.600	See Section 150.600
(h) Utility box	P*	P*
(i) Wall mural	P*	P*
(j) Wind turbine	C	C
(k) Windmill, micro	P*	P*
<b>(13) Accessory Uses</b>		
(a) Accessory Buildings	A	A
(b) Animal boarding facility with no outside run or kennel	A <sup>4</sup>	A <sup>4</sup>
(c) Car wash	A <sup>6</sup>	

## Exhibit B

Schedule 150.320.2 PERMITTED USES IN DOWNTOWN DISTRICTS		
	UBD	CBD
	Urban Business District	Central Business District
(d) Fences and Walls	A	A
(e) Outdoor display/sales except for motor vehicles	A	A
(f) Off-street parking areas and loading facilities	A	A
(g) Private swimming pools	A <sup>8</sup>	A <sup>8</sup>
(h) Signs	A	A
<p><b>Notes to Schedule 150.320.2:</b></p> <p><sup>1</sup> As further regulated by sub-section 150.440, Home Occupation Regulations.</p> <p><sup>2</sup> As further regulated by sub-section 150.565, Protective Care Facility.</p> <p><sup>3</sup> Shall only be permitted in a non-residential building existing prior to August 1, 2006.</p> <p><sup>4</sup> Animal boarding facilities with no outside facilities may be accessory to a permitted Animal hospital or clinic.</p> <p><sup>5</sup> Utility substation/distribution facility, indoor shall not be located on the first floor of any building that is located on a POD 2 street, as shown on the Official Zoning Map.</p> <p><sup>6</sup> Only car washes, with a single-bay, that are accessory to a vehicle fueling station are permitted.</p> <p><sup>7</sup> As further regulated by sub-section 150.565, Transitional Housing.</p> <p><sup>8</sup> As further regulated by sub-section 150.320.8 (D), Private Swimming Pools.</p> <p><sup>9</sup> As regulated by Section 150.420.1</p> <p>P = Use permitted by right; P* = Use permitted by right as further regulated by Section 150.500, Conditional Use and Specific Use Regulations; C = Conditional use; A = Accessory use; Blank cell = Use not permitted in district.</p>		

## Exhibit C

Schedule 150.320.10 Pedestrian Oriented Design Principles		
POD-1	POD-2	Design Principle
		(1) <u>Building Orientation and First Floor Use</u>
X	X	(a) Seventy (70) percent of the building's linear frontage, for the first two floors, shall be located on the front property line or in line with adjacent buildings, provided the setback is not more than three (3) feet. The remaining 30% of the linear frontage shall be setback no more than 10 feet, unless the proposed structure complies with the conditional use criteria set forth in Section 150.500, Conditional Use and Specific Use Regulations.
X	X	(b) If a greater front setback exists on the four buildings, two on either side of the property under review, the Zoning Administrator, Board of Zoning Appeals, or the Plan Board, whichever is applicable under the procedures in Section 150.115 may grant an exception to sub-section 150.320.1 (A)(1)(a). However the maximum front setback shall be ten (10) feet.
X	X	(c) First floor street frontage design facilitates multi-tenant occupancy and walk-in commercial activity, such as retail.
X	X	(d) Along the front elevation, building wall segments or vertical bays shall be between twenty (20) and forty (40) feet in length and shall be distinguished from one another by architectural features such as columns, reveals, pilasters, recesses or extensions.
	X	(e) A transition line shall be provided between the first and second stories. The height of this transition line shall match the height of the transition line on the abutting or adjacent buildings. If adjoining properties are vacant, then the ground floor shall be at least ten (10) feet in height measured from finished floor to finished ceiling.
X	X	(f) Ingress and egress to drive-thru facilities (if permitted in zoning district) shall be from existing alleys. Stacking lanes shall be located to the side or rear of the principle building. Stacking lanes shall not be located in front of the principle building.
		(2) <u>Window Placement</u>
	X	(a) For the first floor, the front facade of every building shall have transparent areas, equal to seventy (70) percent of the front facade area (measured as the total area below the transition line) These transparent areas shall be between two (2) and nine (9) feet above the sidewalk.
X		(b) For the first floor, the front facade of every building shall have transparent areas, equal to fifty (50) percent of the front facade area (measured using the total area below the second floor) These transparent areas shall be between two (2) and nine (9) feet above the sidewalk.
X	X	(c) First floor windows shall permit pedestrians a view of the interior of the building. Windows shall remain transparent and shall not be blocked in any manner. Alternatively, display windows may be used provided these windows are a minimum of three (3) feet in depth, extend the full height of the glazing, and are internally lit.

## Exhibit C

Schedule 150.320.10 Pedestrian Oriented Design Principles		
POD-1	POD-2	Design Principle
X	X	(d) For all upper floors, the front facade of the building shall have glazed areas or windows equal to forty (40) percent of the total area of the front facade, with each floor being calculated independently. Windows shall remain transparent and shall not be blocked in any manner.
X	X	(e) All facade openings, including windows and colonnades, shall be vertical in proportion.
		(3) <u>Building Entrances, Architecture &amp; Pedestrian Circulation</u>
X	X	(a) All buildings shall provide at least one usable building or storefront entrance on each front facade. A corner entrance may be substituted if both street frontages measure eighty (80) lineal feet or less.
X	X	(b) Buildings, without public street frontage, shall provide a sidewalk or courtyard that connects to the sidewalk of a public street.
X	X	(c) Building entrances, not including service entrances, shall be clearly defined by a building projection or recess, or accented by a sheltering element such as an awning, overhang, arcade or portico.
X	X	(d) Residential uses, with first floor public street frontage, shall provide a planted area/planter and/or a front stoop.
X	X	(e) All rooftop mechanical equipment shall be enclosed in building materials that match the structure or which are visually compatible with the structure.
X	X	(f) Materials within ten (10) feet of the ground or the sidewalk shall be of a durable material to withstand pedestrian and vehicular traffic. If "dry vit" or E.I.F.S is used as an exterior building material, high impact mesh shall be used on all wall areas within ten (10) feet of the ground or sidewalk. The impact rating is based on the EIMA (EIFS Industry Members Association) Impact Classification System.
X	X	(g) With the exception of areas designated and approved as loading areas, there shall be no overhead doors, unless those overhead doors are comprised of eighty (80) or more percent of transparent areas.
		(4) <u>Parking</u>
X	X	(a) All accessory parking shall be located to the rear or to side of principal building.
	X	(b) Surface parking lots shall not be located at, on, or adjacent to a frontage line.
X		(c) Per schedule 150.320.5, surface parking lots shall be setback ten (10) feet from any property line that is adjacent to a public street. In this setback, a masonry knee wall, which is a maximum of four (4) feet in height, shall be constructed and/or landscaping provided, which meets the requirements in sub-section 150.800.8 (D)(1)(a).
X		(d) Openings for parking access on a frontage line shall be a maximum of twenty-five (25) feet wide.

## Exhibit C

Schedule 150.320.10 Pedestrian Oriented Design Principles		
POD-1	POD-2	Design Principle
	X	(e) Parking structures shall contain retail uses along the frontage line. These retail uses shall have a minimum depth of twenty (20) feet from the frontage line. The Board of Zoning Appeals may grant an exception to this requirement if the applicant presents compelling information that retail tenants cannot be found at the time of construction. If the exception is granted, the parking structure shall be designed and constructed to accommodate ground floor retail uses in future, and the parking structure shall have architectural features, such as piers or columns to break up the wall mass. Or, display windows, which exhibit retail merchandise from nearby retail uses, shall be provided. These display windows shall be vertical in proportion, have a minimum depth of three (3) feet, be internally lit, and have a minimum height of five (5) feet, and a minimum width of three (3) feet.
	X	(f) All off-street parking areas and parking structures shall be accessed from an alley. The Plan Board or Board of Zoning Appeals, whichever is applicable under Section 150.115, may grant an exception to this requirement if the parking lot or garage does not have frontage on an alley. If an exception is granted, the maximum opening for parking access shall be twenty-five (25) feet.
<b>At Least Two (2) of the Pedestrian Amenities Listed Below Shall be Provided</b>	<b>At Least Three (3) of the Pedestrian Amenities Listed Below Shall be Provided</b>	(5) <u>Pedestrian Amenities</u>
<i>See note above</i>	<i>See note above</i>	(a) Upgrade the sidewalk with ornamental treatments, such as brick or decorative pavers.
<i>See note above</i>	<i>See note above</i>	(b) Provide and maintain sidewalk planters.
<i>See note above</i>	<i>See note above</i>	(c) Provide and maintain benches or public outdoor seating.
<i>See note above</i>	<i>See note above</i>	(d) Provide mini parks/plazas, with a minimum usable area of 300 square feet. The park/plaza shall be integrated into the building and its site and should be accessible from interior spaces so that occupants may make use of the space.
<i>See note above</i>	<i>See note above</i>	(e) Provide significant public art, such as sculpture; a fountain; a clock; or a mural, in design of the building.

## Exhibit D

### Schedule 150.325.2 PERMITTED USES IN COMMERCIAL DISTRICTS

Land Use Category	MNC	ENC	SNC	MGC	EGC	SGC
	Mature Neighborhood Commercial	Eclectic Neighborhood Commercial	Suburban Neighborhood Commercial	Mature General Commercial	Eclectic General Commercial	Suburban General Commercial
<b>(1) Residential</b>						
(a) Single-family dwelling, detached	I	I		I		
(b) Single-family dwelling, attached	P*	P*				
(c) Two-family dwelling	I	I				
(d) Multi-family dwelling	P*	P*	P*	P*	P*	P*
(e) Family day care home for 1-6 children (type B)	P	P		P		
(f) Family day care home for 7-12 children (type A)	C	C				
(g) Dwelling unit(s) above the first floor of a building	P	P	P	P	P	P
<b>(2) Residential/Work</b>						
(a) Home Occupation	A <sup>4</sup>	A <sup>4</sup>	A <sup>4</sup>	A <sup>4</sup>	A <sup>4</sup>	A <sup>4</sup>
(b) Live-work unit	P	P		P		
(c) Work-live unit	P	P		P		
<b>(3) Community Facilities/Institutions</b>						
(a) Assembly hall/auditorium			P	P	P	P
(b) Church/religious assembly	P	P	P	P	P	P
(c) Community center	P	P	P	P	P	P
(d) Congregate care facility/nursing home	C	C	C	C	P	P
(e) Cultural institution	P	P	P	P	P	P
(f) Library	P	P	P	P	P	P
(g) Membership Club				P	P	P
(h) Public safety facility	P	P	P	P	P	P
(i) Utility substation/distribution facility, indoor					P	P
(j) Utility substation/distribution facility, outdoor	C	C	C	C	P	P

## Exhibit D

### Schedule 150.325.2 PERMITTED USES IN COMMERCIAL DISTRICTS

Land Use Category	MNC	ENC	SNC	MGC	EGC	SGC
	Mature Neighborhood Commercial	Eclectic Neighborhood Commercial	Suburban Neighborhood Commercial	Mature General Commercial	Eclectic General Commercial	Suburban General Commercial
<b>(4) Educational Facilities</b>						
(a) Day care center, child and adult	P*	P*	P*	P*	P*	P*
(b) School (public/private), college/university				C	C	C
(c) School (public/private), elementary/secondary				C	C	C
(d) School specialty/personal instruction	C	C	C	P	P	P
<b>(5) Recreation/Open Space</b>						
(a) Health club	P	P	P	P	P	P
(b) Model airplane flying facility						C
(c) Park/playground		P	P		P	P
(d) Recreation facility, indoor				P	P	P
(e) Recreation facility, outdoor						
(f) Sports facility					C	C
(g) Theater, drive-in/outdoor					C	C
(h) Theater, indoor				C	C	C
<b>(6) Office/Professional Services</b>						
(a) Financial institution/bank	P	P	P	P	P	P
(b) Office – administrative/professional	P	P	P	P	P	P
(c) Office – medical/dental/health services	P*	P*	P*	P*	P*	P*
<b>(7) Retail/Personal Services</b>						
(a) Animal hospital/clinic					p <sup>2</sup>	p <sup>2</sup>
(b) Animal boarding facility with no outside run or kennel						P
(c) Animal boarding facility with outside run and/or kennel						C
(d) Freestanding Drive-thru facility					C	C

## Exhibit D

### Schedule 150.325.2 PERMITTED USES IN COMMERCIAL DISTRICTS

Land Use Category	MNC	ENC	SNC	MGC	EGC	SGC
	Mature Neighborhood Commercial	Eclectic Neighborhood Commercial	Suburban Neighborhood Commercial	Mature General Commercial	Eclectic General Commercial	Suburban General Commercial
(e) Drive-thru facility	C	C	C	C	P*	P*
(f) Funeral home & related facilities					P	P
(g) Outdoor display/sales except for motor vehicles	A	A	A	A	C	C
(h) Restaurant, indoor dining	P	P	P	P	P	P
(i) Restaurant, outdoor dining	P*	P*	P*	P*	P*	P*
(j) Retail establishment	P	P	P	P	P	P
(k) Service establishment, business	P	P	P	P	P	P
(l) Service establishment, personal	P	P	P	P	P	P
<b>(8) Lodging</b>						
(a) Bed & breakfast	P*	P*	P*	P*	P*	P*
(b) Hotel/motel				P	P	P
<b>(9) Motor Vehicle/Transportation</b>						
(a) Automobile service station				P*	P*	P*
(b) Car wash					P*	P*
(c) Equipment sales/rental/service (includes agricultural implements)				C	P*	P*
(d) Motor vehicle body shop				C	A <sup>3</sup>	A <sup>3</sup>
(e) Motor vehicle repair (including boats)				P*	P*	P*
(f) Motor vehicle sales/rental (including boats)					P* <sup>3</sup>	P* <sup>3</sup>
(g) Parking lot as principal use	C	C	P*	C	P*	P*
(h) Parking lot, restricted	C	C	C	C	C	C
(i) Parking structure	C	C	C	C	C	C
(j) Transit station					C	C
(k) Transit turnaround			C		C	C
(l) Vehicle fueling station					C	C

## Exhibit D

### Schedule 150.325.2 PERMITTED USES IN COMMERCIAL DISTRICTS

Land Use Category	MNC	ENC	SNC	MGC	EGC	SGC
	Mature Neighborhood Commercial	Eclectic Neighborhood Commercial	Suburban Neighborhood Commercial	Mature General Commercial	Eclectic General Commercial	Suburban General Commercial
<b>(10) Storage and Distribution</b>						
(a) Recycling collection facility, small						P
(b) Self-storage facility, indoor					P*	P*
(c) Wholesale sales and/or distribution, indoor				C	C	C
<b>(11) Other</b>						
(a) Bee keeping	P <sup>5</sup>	P <sup>5</sup>	P <sup>5</sup>	P <sup>5</sup>	P <sup>5</sup>	P <sup>5</sup>
(b) Community garden	P*	P*	P*	P*	P*	P*
(c) Harvesting	P*	P*	P*	P*	P*	P*
(d) MicrobotTLer	P*	P*	P*	P*	P*	P*
(e) Plant nursery/greenhouse					P*	P*
(f) Solar energy structure	C	C	C	C	C	C
(g) Solar panel, building	P*	P*	P*	P*	P*	P*
(h) Telecommunication facility	See Section 150.600	See Section 150.600	See Section 150.600	See Section 150.600	See Section 150.600	See Section 150.600
(i) Utility box	P*	P*	P*	P*	P*	P*
(j) Wall mural	P*	P*	P*	P*	P*	P*
(k) Wind turbine	C	C	C	C	C	C
(l) Windmill, micro	P*	P*	P*	P*	P*	P*
<b>(12) Accessory Uses</b>						
(a) Accessory Buildings	A	A	A	A	A	A
(b) Animal boarding facility with no outside run or kennel <sup>2</sup>					A	A
(c) Fences and Walls	A	A	A	A	A	A
(d) Home Occupation	A <sup>4</sup>	A <sup>4</sup>	A <sup>4</sup>	A <sup>4</sup>	A <sup>4</sup>	A <sup>4</sup>
(e) Off-street parking areas and loading facilities	A	A	A	A	A	A
(f) Signs	A	A	A	A	A	A
(g) Outdoor storage, equipment/vehicles					A	A
(h) Outdoor storage, goods & general materials					A	A
(i) Trash receptacles	A	A	A	A	A	A

## Exhibit D

### Schedule 150.325.2 PERMITTED USES IN COMMERCIAL DISTRICTS

	MNC	ENC	SNC	MGC	EGC	SGC
Land Use Category	Mature Neighborhood Commercial	Eclectic Neighborhood Commercial	Suburban Neighborhood Commercial	Mature General Commercial	Eclectic General Commercial	Suburban General Commercial

**Notes to Schedule 150.325.2:**

<sup>1</sup> Only detached single-family dwellings and two-family dwellings that existed prior to August 1, 2006 shall be permitted. Newly constructed single-family and two-family dwellings shall be prohibited.

<sup>2</sup> Animal boarding facilities with no outside facilities may be accessory to a permitted animal hospital or clinic

<sup>3</sup> Motor vehicle sales establishments may have motor vehicle body shops provided these shops are accessory to the principal use.

<sup>4</sup> As regulated by Section 150.440, Home Occupation Regulations

<sup>5</sup> As regulated by Section 150.420.1.

P= Use permitted by right; P\* = Use permitted by right as further regulated by Section 150.500, Conditional Use and Specific Use Regulations;  
C= Conditional Use; A=Accessory Use; Blank Cell = Use not permitted

## Exhibit E

Schedule 150.330.2 PERMITTED USES IN THE MIXED-USE AND TRANSITIONAL DISTRICTS		
	T	MX
	Transitional District	Mixed-Use Hub
<b>(1) Residential</b>		
(a) Dwelling units on or above the first floor of a dwelling	P	P
(b) Single-family dwelling, detached	P <sup>1</sup>	
(c) Single-family dwelling, detached cluster	P*	
(d) Single-family dwelling, attached	P*	C
(e) Two-family dwelling	P*	
(f) Multi-family dwelling	P*	P
(g) Family day care home for 1-6 children (type B)	P	P
(h) Family day care home for 7-12 children (type A)	C	C
<b>(2) Group Residential</b>		
(a) Adult care facility for 3-5 persons	P	P
(b) Adult care facility for 6-16 persons	C	C
(c) Residential facility for 5 or fewer persons	P	P
(d) Residential facility for 6-8 persons	P	P
(e) Residential facility for 9-16 persons	C	C
<b>(3) Residential/Work</b>		
(a) Home occupation	A <sup>2</sup>	A <sup>2</sup>
(b) Live-work unit	P*	P*
(c) Work-live unit	P	P
<b>(4) Community Facilities/Institutions</b>		
(a) Assembly hall/auditorium	P	C
(b) Church/religious assembly	P	C
(c) Community center	P	C
(d) Congregate care facility/nursing home	P	C
(e) Cultural institution	P	C
(f) Hospital	C	C
(g) Library	P*	P*
(h) Membership clubs	P	P
(i) Public safety facility	P	P
(j) Utility substation/distribution facility, indoor	C	C
(k) Utility substation/distribution facility, outdoor	C	C
<b>(5) Educational Uses</b>		
(a) Day care center, child and adult	C	C

## Exhibit E

Schedule 150.330.2 PERMITTED USES IN THE MIXED-USE AND TRANSITIONAL DISTRICTS		
	T	MX
	Transitional District	Mixed-Use Hub
(b) School (public/private), college/university	P	P
(c) School (public/private), elementary/secondary	C	C
(d) School (public/private), specialty/personal instruction	P*	P*
<b>(6) Recreation/Open Space</b>		
(a) Golf/swim/tennis club	P	
(b) Health club	P	P
(c) Park/playground	P	P
(d) Recreation facility, indoor	P*	C
(e) Theater, indoor		C
<b>(7) Office/Professional Services</b>		
(a) Office – administrative/professional	P	P
(b) Office – medical/dental/health services	P*	P*
(c) Research/development facility, laboratory	P	P
<b>(8) Retail/Personal Services</b>		
(a) Drive-thru facility		C
(b) Freestanding drive-thru facility		C
(c) Financial institution/bank		P
(d) Funeral home	P	
(e) Restaurant, indoor dining		P
(f) Restaurant, outdoor dining		P*
(g) Retail establishment		P
(h) Service establishment, business		P
(i) Service establishment, personal		P
<b>(9) Lodging</b>		
(a) Bed & breakfast		P
(b) Hotel/motel		P
<b>(10) Motor Vehicle/Transportation</b>		
(a) Helicopter landing facility		C
(b) Parking lot, restricted	C	C
(c) Parking structure	C	C
(d) Railroad station		C
(e) Transit station		C
(f) Transit turnaround	C	C

## Exhibit E

Schedule 150.330.2 PERMITTED USES IN THE MIXED-USE AND TRANSITIONAL DISTRICTS		
	T	MX
	Transitional District	Mixed-Use Hub
(g) Vehicle fueling station		C
<b>(11) Storage and Distribution</b>		
(a) Self-storage facility, indoor	C <sup>3</sup>	
(b) Warehouse storage, indoor	C	
(c) Wholesale sales and/or distribution, indoor	C	C
<b>(12) Industrial</b>		
(a) Manufacturing, light	C <sup>4</sup>	
(b) Microbottler	P*	P*
<b>(13) Other</b>		
(a) Bee keeping	P <sup>6</sup>	P <sup>6</sup>
(b) Community garden	P*	P*
(c) Harvesting	P*	P*
(d) Nightclub		P
(e) Solar energy structure	C	C
(f) Solar panel, building	P*	P*
(g) Telecommunication facility	See Section 150.600	See Section 150.600
(h) Utility box	P*	P*
(i) Wall mural	P*	P*
(j) Wind turbine	C	C
(k) Windmill, micro	P*	P*
<b>(14) Accessory Uses and Structures</b>		
(a) Accessory buildings	A	A
(b) Fences and walls	A	A
(c) Home occupation	A <sup>2</sup>	A <sup>2</sup>
(d) Off-street parking areas and loading facilities	A	A
(e) Outdoor merchandise sales/display	A	A
(f) Private swimming pools	A <sup>5</sup>	A <sup>5</sup>
(g) Signs	A	A

## Exhibit E

Schedule 150.330.2 PERMITTED USES IN THE MIXED-USE AND TRANSITIONAL DISTRICTS		
	T	MX
	Transitional District	Mixed-Use Hub
<p><b>Notes to Schedule 150.330.2:</b></p> <p><sup>1</sup> New construction shall comply with the regulations of the abutting single-family residential district. If there is none, new construction shall comply with the regulations of the ER-4 district.</p> <p><sup>2</sup> As further regulated by Section 150.440, Home Occupation Regulations.</p> <p><sup>3</sup> Shall be permitted by right in non-residential buildings existing prior to August 1, 2006. Shall be conditionally permitted in newly constructed buildings.</p> <p><sup>4</sup> Shall only be conditionally permitted in a non-residential building existing prior to August 1, 2006.</p> <p><sup>5</sup> As further regulated by sub-section 150.330.6 (E), Private Swimming Pools.</p> <p><sup>6</sup> As regulated by Section 150.420.1.</p> <p>P=Use permitted by right; P* = Use permitted by right as further regulated by Section 150.500, Conditional Use and Specific Use Regulations; C= Conditional Use; A=Accessory Use; Blank Cell = Use not permitted</p>		

## Exhibit F

Schedule 150.335.2 Permitted Uses in Campus-Institutional District		
	CI	
	Campus-Institutional	
	When located more than 150 feet from the Campus- Institutional Zoning District Boundary <sup>1,2</sup>	When located 150 feet or less from the Campus- Institutional Zoning District Boundary <sup>2</sup>
<b>(1) Residential</b>		
(a) Single-family dwelling, detached	P <sup>1,2,6</sup>	P <sup>2,6</sup>
(b) Single-family dwelling, detached cluster	P* <sup>1,2</sup>	P* <sup>2,8</sup>
(c) Single-family dwelling, attached	P <sup>1,2,6</sup>	P* <sup>2,8</sup>
(d) Two-family dwelling	P <sup>1,2,6</sup>	P* <sup>2,8</sup>
(e) Multi-family dwelling	P <sup>1,2,7</sup>	P* <sup>2,8</sup>
(f) Family day care home for 1-6 children (type B)	P <sup>2</sup>	P <sup>2</sup>
(g) Family day care home for 7-12 children (type A)	P <sup>2</sup>	C <sup>2</sup>
<b>(2) Group Residential</b>		
(a) Adult care facility for 3-5 persons	P <sup>2</sup>	P <sup>2</sup>
(b) Adult care facility for 6-16 persons	C <sup>1,2</sup>	C <sup>2</sup>
(c) Dormitory, fraternity, sorority	P <sup>1,2</sup>	P* <sup>2,8</sup>
(d) Residential facility for 5 or fewer persons	P <sup>2</sup>	P <sup>2</sup>
(e) Residential facility for 6-8 persons	P <sup>2</sup>	P <sup>2</sup>
(f) Residential facility for 9-16 persons	P <sup>1,2</sup>	C <sup>2</sup>
<b>(3) Residential/Work</b>		
(a) Home occupation	A <sup>2,4</sup>	A <sup>4</sup>
(b) Live-work unit	P <sup>2</sup>	P <sup>2</sup>
(c) Work-live unit	P <sup>2</sup>	P* <sup>2,8</sup>
<b>(4) Community Facilities/Institutions</b>		
(a) Assembly hall/auditorium	P <sup>1,2</sup>	P* <sup>2,8</sup>
(b) Cemetery	P <sup>1,2</sup>	P* <sup>2,8</sup>
(c) Church/religious assembly	P <sup>1,2</sup>	P* <sup>2,8</sup>
(d) Community center	P <sup>1,2</sup>	P* <sup>2,8</sup>
(e) Congregate care facility/nursing home	P <sup>1,2</sup>	P* <sup>2,8</sup>
(f) Cultural institution	P <sup>1,2</sup>	P* <sup>2,8</sup>
(g) Hospital	P <sup>1,2</sup>	P* <sup>2,8</sup>
(h) Library	P <sup>1,2</sup>	P* <sup>2,8</sup>

## Exhibit F

Schedule 150.335.2 Permitted Uses in Campus–Institutional District		
	CI	
	Campus-Institutional	
	When located more than 150 feet from the Campus- Institutional Zoning District Boundary <sup>1,2</sup>	When located 150 feet or less from the Campus- Institutional Zoning District Boundary <sup>2</sup>
(i) Public safety facility	P <sup>1,2</sup>	P* <sup>2,8</sup>
(j) Utility substation/distribution facility, indoor	P <sup>1,2</sup>	P* <sup>2,8</sup>
(k) Utility substation/distribution facility, outdoor	P <sup>1,2</sup>	P* <sup>2,8</sup>
<b>(5) Educational Uses</b>		
(a) Day care center, child and adult	P <sup>1,2</sup>	P* <sup>2,8</sup>
(b) School (public/private), college/university	P <sup>1,2</sup>	P* <sup>2,8</sup>
(c) School (public/private), elementary/secondary	P <sup>1,2</sup>	P* <sup>2,8</sup>
(d) School (public/private), specialty/personal instruction	P <sup>1,2</sup>	P* <sup>2,8</sup>
<b>(6) Recreation/Open Space</b>		
(a) Golf/swim/tennis club	P <sup>1,2</sup>	P* <sup>2,8</sup>
(b) Health club	P <sup>1,2</sup>	P* <sup>2,8</sup>
(c) Park/playground	P <sup>1,2</sup>	P <sup>2,8</sup>
(d) Recreation facility, indoor	P <sup>1,2</sup>	P* <sup>2,8</sup>
(e) Recreation facility, outdoor	P <sup>1,2</sup>	P* <sup>2,8</sup>
(f) Sports facility	P* <sup>1,2</sup>	P* <sup>2,8</sup>
(g) Theater, indoor	P <sup>1,2</sup>	P* <sup>2,8</sup>
<b>(7) Office/Professional/Retail/Personal Services<sup>3</sup></b>	3	3
(a) Financial institution/bank	P <sup>1,2,3</sup>	P* <sup>2,3,8</sup>
(b) Freestanding Drive-thru facility	P <sup>1,2,3</sup>	P* <sup>2,3,8</sup>
(c) Drive-thru facility	P <sup>1,2,3</sup>	P* <sup>2,3,8</sup>
(d) Office – administrative/professional	P <sup>1,2,3</sup>	P* <sup>2,3,8</sup>
(e) Office – medical/dental/health services	P <sup>1,2,3</sup>	P* <sup>2,3,8</sup>
(f) Research/development facility, laboratory	P <sup>1,2,3</sup>	P* <sup>2,3,8</sup>
(g) Restaurant, indoor dining	P <sup>1,2,3</sup>	P <sup>2,3,8</sup>
(h) Restaurant, outdoor dining	P* <sup>1,2,3</sup>	P* <sup>2,3,8</sup>
(i) Retail establishment	P <sup>1,2,3</sup>	P* <sup>2,3,8</sup>
(j) Service establishment, business	P <sup>1,2,3</sup>	P* <sup>2,3,8</sup>

## Exhibit F

Schedule 150.335.2 Permitted Uses in Campus-Institutional District		
	CI	
	Campus-Institutional	
	When located more than 150 feet from the Campus- Institutional Zoning District Boundary <sup>1,2</sup>	When located 150 feet or less from the Campus- Institutional Zoning District Boundary <sup>2</sup>
(k) Service establishment, personal	P <sup>1, 2, 3</sup>	P* <sup>2, 3, 8</sup>
<b>(8) Lodging</b>		
(a) Bed & breakfast	P <sup>1, 2</sup>	P* <sup>2, 8</sup>
(b) Hotel/motel	P <sup>1, 2</sup>	P <sup>2, 8</sup>
<b>(9) Motor Vehicle/Transportation</b>		
(a) Helicopter landing facility	C <sup>1, 2</sup>	C <sup>2</sup>
(b) Parking lot as principal use	P <sup>1, 2</sup>	P* <sup>2, 8</sup>
(c) Parking structure	P <sup>1, 2</sup>	P* <sup>2, 8</sup>
(d) Transit turnaround	P <sup>1, 2</sup>	P* <sup>2, 8</sup>
<b>(10) Other</b>		
(a) Bee keeping	P <sup>9</sup>	P <sup>9</sup>
(b) Community garden	P* <sup>2</sup>	P* <sup>2</sup>
(c) Harvesting	P* <sup>2</sup>	P* <sup>2</sup>
(d) Solar energy structure	P <sup>2</sup>	C <sup>2</sup>
(e) Solar panel, building	P* <sup>2</sup>	P* <sup>2</sup>
(f) Telecommunication facility	See Section 150.600	See Section 150.600
(g) Utility box	P* <sup>2</sup>	P* <sup>2</sup>
(h) Wall mural	P* <sup>2</sup>	P* <sup>2</sup>
(i) Wind turbine	C <sup>2</sup>	C <sup>2</sup>
(j) Windmill, micro	P* <sup>2</sup>	P* <sup>2</sup>
<b>(11) Accessory Uses</b>		
(a) Accessory buildings	A <sup>2</sup>	A <sup>2</sup>
(b) Fences and walls	A <sup>2</sup>	A <sup>2</sup>
(c) Home Occupation	A <sup>2, 4</sup>	A <sup>4</sup>
(d) Off-street parking areas and loading facilities	A <sup>2</sup>	A <sup>2</sup>
(e) Outdoor merchandise sales/display	A <sup>2</sup>	A <sup>2</sup>
(f) Private swimming pools	A <sup>2, 5</sup>	A <sup>2, 5</sup>

## Exhibit F

<b>Schedule 150.335.2</b>		
<b>Permitted Uses in Campus–Institutional District</b>		
	<b>CI</b>	
	<b>Campus-Institutional</b>	
	<b>When located more than 150 feet from the Campus-Institutional Zoning District Boundary<sup>1,2</sup></b>	<b>When located 150 feet or less from the Campus-Institutional Zoning District Boundary<sup>2</sup></b>
(g) Signs	A <sup>2</sup>	A <sup>2</sup>
<p><b>Notes to Schedule 150.335.2:</b></p> <p><sup>1</sup> When the proposal is consistent with an approved general development plan. If the proposed use is not part of an approved general development plan, the general development plan must be amended.</p> <p><sup>2</sup> As measured from any point along the property line of the zoning lot under review.</p> <p><sup>3</sup> These uses shall only be permitted, either by right or conditionally, when customarily related to the primary mission of the institution and designed to primarily serve the institutions' patrons.</p> <p><sup>4</sup> As regulated by Section 150.440, Home Occupation Regulations</p> <p><sup>5</sup> As further regulated by Section 150.335.6 (D), Private Swimming Pools.</p> <p><sup>6</sup> New construction shall comply with the regulations of the abutting single-family residential district. If there is none, new construction shall comply with the regulations of the MR-5 district.</p> <p><sup>7</sup> New construction shall comply with the regulations of the abutting multi-family residential district. If there is none, new construction shall comply with the regulations of the MMF district.</p> <p><sup>8</sup> This use shall be permitted by-right, as further regulated by Section 150.500, when included on an approved general development plan. If the use is not shown on an approved general development plan, then the use shall be a conditional use.</p> <p><sup>9</sup> As regulated by Section 150.420.1.</p> <p>P = Use permitted by right; P* = Use permitted by right as further regulated by Section 150.500, Conditional Use and Specific Use Regulations, C = Conditional Use; A = Accessory Use; Blank Cell = Use not permitted</p>		

## Exhibit G

Schedule 150.340.2 PERMITTED USES IN INDUSTRIAL DISTRICTS			
	I-1	I-2	BP
	Light Industrial	General Industrial	Business Park
<b>(1) Residential/Work</b>			
(a) Single-family dwelling, detached	P <sup>6</sup>	P <sup>6</sup>	
(b) Multi-family dwelling	P <sup>6</sup>	P <sup>6</sup>	
(c) Two-family dwelling	P <sup>6</sup>	P <sup>6</sup>	
(d) Work-live unit	P		
<b>(2) Community Facilities/Institutions</b>			
(a) Cultural institution	P	P	P*
(b) Protective care facility	C		
(c) Public safety facility	P	P	P*
(d) Transitional Housing	C <sup>3</sup>		
(e) Utility substation/distribution facility, indoor	P	P	P
(f) Utility substation/distribution facility, outdoor	P*	P*	C
<b>(3) Educational Uses</b>			
(a) Day care center, child and adult	P* <sup>2</sup>		P* <sup>2</sup>
(b) School (public/private), college/university	P*	P*	P*
(c) School (public/private), elementary/secondary	C	C	P*
(d) School, specialty/personal instruction	P	P	P*
<b>(4) Recreation/Open Space</b>			
(a) Health club	P	P	P
(b) Model airplane flying facility	C	C	
(c) Recreation facility, indoor	P		
(d) Recreation facility, outdoor	C		
(e) Theater, drive-in/outdoor	C		
<b>(5) Office/Professional Services</b>			
(a) Financial institution/bank			P <sup>2</sup>
(b) Office – administrative/professional	P	P	P
(c) Office – medical/dental/health services			P*
(d) Research/development facility, laboratory	P	P	P
<b>(6) Retail/Personal Services</b>			
(a) Animal hospital/clinic	P	P	
(b) Animal boarding facility (no outside run/kennel)	P	P	
(c) Animal boarding facility (with outside run/kennel)	C	C	
(d) Restaurant, indoor dining	P <sup>2</sup>	P <sup>2</sup>	P <sup>2</sup>
(e) Restaurant, outdoor dining			P* <sup>2</sup>

## Exhibit G

Schedule 150.340.2 PERMITTED USES IN INDUSTRIAL DISTRICTS			
	I-1	I-2	BP
	Light Industrial	General Industrial	Business Park
(f) Retail establishment	P <sup>2</sup>	P <sup>2</sup>	P <sup>2</sup>
(g) Service establishment, business	P	P	P
(h) Service establishment, personal			P <sup>2</sup>
<b>(7) Motor Vehicle/Transportation</b>			
(a) Auto Service Station	P	P	
(b) Car wash	P	P	
(c) Equipment sales/rental/service (includes agricultural implements)	P	P	
(d) Motor vehicle body shop	P	P	
(e) Motor vehicle sales/rental (including boats)	P	P	
(f) Motor vehicle repair (including boats)	C	P	
(g) Parking lot, restricted	C	C	C
(h) Parking structure	C	C	C
(i) Railroad yard		P	
(j) Transit garage	P	P	
(k) Transit station	C	C	C
(l) Transit turnaround	P	P	C
(m) Vehicle fueling station	C	C	
<b>(8) Storage and Distribution</b>			
(a) Outdoor storage, equipment/vehicles	C	P	C
(b) Outdoor storage, general materials	C	P	C
(c) Self-storage facility, indoor	P	P	P
(d) Trucking/motor freight terminal	C	P	
(e) Warehouse storage, indoor	P	P	P
(f) Wholesale sales and/or distribution, indoor	P	P	P
(g) Wholesale sales and/or distribution, outdoor	C	P	C
<b>(9) Industrial</b>			
(a) Construction & Demolition Waste Facility		C	
(b) Crematorium		C	
(c) Incinerator		C	
(d) Junkyard		C	
(e) Manufacturing, heavy		P <sup>4</sup>	C <sup>1,4</sup>
(f) Manufacturing, light	P	P	P <sup>1</sup>
(g) Microbottler	P*	P*	P*
(h) Recycling collection facility, large		P	

## Exhibit G

Schedule 150.340.2 PERMITTED USES IN INDUSTRIAL DISTRICTS			
	I-1	I-2	BP
	Light Industrial	General Industrial	Business Park
(i) Recycling collection facility, small	P	P	
(j) Recycling processing facility, indoor	P	P	
(k) Recycling processing facility, outdoor		P	
(l) Sand, limestone, shale, clay, dirt & gravel operations		C	
(m) Sewage/liquid waste treatment facility		C	
(n) Sanitary Waste Facility		C <sup>5</sup>	
(o) Water supply/treatment facility	C	C	C
<b>(10) Other</b>			
(a) Adult entertainment	C	C	
(b) Bee keeping	P <sup>7</sup>	P <sup>7</sup>	P <sup>7</sup>
(c) Community garden	P*	P*	P*
(d) Harvesting	P*	P*	P*
(e) Plant nursery/greenhouse	C	P	
(f) Solar energy structure	C	C	C
(g) Solar panel, building	P*	P*	P*
(h) Telecommunication facility	See Section 150.600	See Section 150.600	See Section 150.600
(i) Utility box	P*	P*	P*
(j) Wall mural	P*	P*	P*
(k) Wind turbine	C	C	C
(l) Windmill, micro	P*	P*	P*
<b>(11) Accessory Uses</b>			
(a) Accessory Buildings	A	A	A
(b) Fences and walls	A	A	A
(c) Helicopter landing facility See §150.565	A	A	A
(d) Off-street parking areas and loading facilities	A	A	A
(e) Outdoor merchandise sales/display	A	A	A
(f) Signs	A	A	A

## Exhibit G

Schedule 150.340.2 PERMITTED USES IN INDUSTRIAL DISTRICTS			
	I-1	I-2	BP
	Light Industrial	General Industrial	Business Park
<p><b>Notes to Schedule 150.340.2:</b></p> <p><sup>1</sup> All operations, including storage, shall take place in a principal and/or an accessory building.</p> <p><sup>2</sup> This use shall be permitted by-right when part of a multi-establishment building and it is not the principal use of a building. If the use is proposed to be the principal use in any building (i.e. occupying the majority of gross floor area), then the use is a conditional use.</p> <p><sup>3</sup> Transitional housing shelters shall not be located within 1000-feet of an emergency housing shelter or another transitional housing shelter. Separation distances are measured from property line to property line by the shortest distance.</p> <p><sup>4</sup> See Section 150.340.2 (C), Heavy Manufacturing Uses</p> <p><sup>5</sup> Subject to Section 184 of the City Charter</p> <p><sup>6</sup> Shall be permitted by right in a residentially constructed building existing prior to August 1, 2006.</p> <p><sup>7</sup> As regulated by Section 150.420.1.</p> <p>P = Use permitted by right; P* = Use permitted by right as further regulated by Section 150.500, Conditional Use and Specific Use Regulations; C = Conditional use; A = Accessory use Blank cell = Use not permitted in district</p>			

## Exhibit H

Schedule 150.365.2 PERMITTED USES IN THE PARK/OPEN SPACE DISTRICT	
	OS
	Park/Open Space
<b>(1) Community Facilities/Institutions</b>	
(a) Cemetery	<b>P*</b>
(b) Church/religious assembly	P
(c) Community center	P
(d) Cultural institution	P
(e) Library	P
(f) Public safety facility	C
(g) Utility substation/distribution facility, indoor	P
(h) Utility substation/distribution facility, outdoor	P
<b>(2) Recreation/Open Space</b>	
(a) Agriculture, livestock	C
(b) Amusement park	C
(c) Arboretum/botanical garden	P
(d) Ball fields	P
(e) Band shell	P
(f) Bee keeping	P <sup>1</sup>
(g) Boat launch	P
(h) Campground	C
(i) Community garden	<b>P*</b>
(j) Dog park	C
(k) Golf course	P
(l) Greenhouse/conservatory	P
(m) Harvesting	<b>P*</b>
(n) Nature preserve	P
(o) Park/playground	P
(p) Recreation facility, indoor	P
(q) Recreation facility, outdoor	P
(r) Riding stable	P
(s) Skate park	C
(t) Sports facility	C
(u) Swimming pool, indoor or outdoor	P
(v) Tennis courts	P
(w) Theater, outdoor	P

## Exhibit H

Schedule 150.365.2 PERMITTED USES IN THE PARK/OPEN SPACE DISTRICT	
	OS Park/Open Space
(x) Trails for hiking/biking/running	P
(y) Water park	PD
(z) Zoo	PD
<b>(3) Other</b>	
(a) Multi-family dwelling	P <sup>2</sup>
(b) Single-family dwelling, detached	P <sup>2</sup>
(c) Solar panel, building	P*
(d) Telecommunication facility	See Section 150.600
(e) Two-family dwelling	P <sup>2</sup>
(f) Utility box	P*
(g) Wall mural	P*
(h) Windmill, micro	P*
<b>(4) Accessory Uses</b>	
(a) Office, administrative/ professional	A
(b) Outdoor display/sales	A
(1) Outdoor Storage of Goods & General Materials	C
(2) Outdoor Storage of Vehicles & Equipment	C
(c) Off Street Parking and Loading areas	A
(d) Restaurant, indoor dining	A
(e) Restaurant, outdoor dining	A
(f) Restrooms	A
(g) Retail establishment	A
(h) Signs	A
<p>Notes to Schedule 150.365.2:  <sup>1</sup> As regulated by Section 150.420.1  <sup>2</sup> Shall be permitted by right in a residentially constructed building existing prior to August 1, 2006.</p> <p>P = Use permitted by right; P* = Use permitted by right as further regulated by Section 150.500; C = Conditional Use, A = Accessory Use            Blank cell = Use not permitted            PD = Shall be permitted only as part of a Planned Development</p>	

# Exhibit I

Schedule 150.700.7 Off-Street Parking Requirements for Non-Commercial Uses in Commercial, Mixed-Use Hub and Transitional Districts	
LAND USE	MINIMUM REQUIREMENT
<b>(1) Residential</b>	
(a) Dwelling Unit On or Above the First Floor	1 per dwelling unit
(b) Single-Family Dwelling, Detached	2 per dwelling unit
(c) Single-Family Dwelling, Detached Cluster	2 per dwelling unit + 1 per 4 dwelling units for visitors
(d) Single-Family Dwelling, Attached	2 per dwelling unit
(e) Two-Family Dwelling	2 per dwelling unit
(f) Family Day Care Home, Child; 1-6 children (Type B)	1 per non-resident attendant + 1 drop-off space + residential requirement
(g) Family Day Care Home, Child; 7-12 children (Type A)	1 per non-resident attendant + 2 drop-off spaces + residential requirement
(h) Manufactured Home	2 per dwelling unit
(i) Mobile Home Park	2 per dwelling unit + 1 per 4 dwelling units for visitors
(j) Multi-Family Dwelling	1.5 per dwelling unit + 1 space per 10 dwelling units for visitors
<b>(2) Group Residential</b>	
(a) Adult Care Facility; 3-5 persons	0.75 per employee + 1 per 3 beds
(b) Adult Care Facility; 6-16 persons	0.75 per employee + 1 per 3 beds
(c) Residential Facility; 1-5 persons	0.75 per employee + 1 per 4 residents
(d) Residential Facility; 6-8 persons	0.75 per employee + 1 per 4 residents
(e) Residential Facility; 9-16 persons	0.75 per employee + 1 per 4 residents
<b>(3) Residential/Work</b>	
(a) Live-Work Unit	1.5 for first 1000 sf + 0.25 for each additional 1,000 sf
(b) Work-Live Unit	1.5 for first 1000 sf + 0.25 for each additional 1,000 sf
<b>(4) Community Facility/ Institution</b>	
(a) Church/Religious Assembly	1 per 4 persons at design capacity + dwelling requirement
(b) Community Center	4 per 1,000 sf of floor area
(c) Congregate Care Facility/Nursing Home	1 per 2 employees + 1 per 4 beds
(d) Library	2 per 1,000 sf of floor area
(e) Hospital	1.25 per bed
(f) Membership club	1 per 4 persons at design capacity
(g) Public Safety Facility	None
(h) Utility Substation/Distribution Center, Indoor	None
(i) Utility Substation/Distribution Center, Outdoor	None
<b>(5) Educational Facility</b>	
(a) Day Care Center, Adult or Child	1 per employee + 1 per 4 attendees
(b) School (Public/Private) Elementary	1 per classroom + 1 per employee or 1 per 3 auditorium seats, whichever is greater
(c) School (Public/Private) Secondary	1 per classroom + 1 per employee + 1 per 3 stadium or auditorium seats, whichever is greater
(d) School (Public/Private) College/university	1 space per 4 students (based on the maximum number of students at design capacity) + 2 spaces for each 3 employees
(e) School, Specialty/Personal Instruction.	2 spaces per classroom, plus 1 space for every 2 students at design capacity
<b>(6) Recreation/Open Space</b>	
(a) Golf/Swim/Tennis Club	1 per 3 persons at maximum capacity for all facilities capable of simultaneous use
(b) Model Airplane Flying Facility	5 per acre
(c) Park, Passive	4 per acre
(d) Playground/ Park, Active	5 per acre + other use requirements
(e) Riding Stable	1 per 2 stalls + 1 per employee
<b>(7) Motor Vehicle/Transportation</b>	
(a) Railroad Station	None
(b) Transit Station	None
<b>(8) Storage and Distribution</b>	
(a) Outdoor Storage, Equipment/Vehicles	None
(b) Outdoor Storage, General Materials	None
(c) Self-Storage Facility, Indoor	1 per 10 storage bays
(d) Warehouse Storage, Indoor	0.5 per 1,000 sf of floor area

# Exhibit I

Schedule 150.700.7 Off-Street Parking Requirements for Non-Commercial Uses in Commercial, Mixed-Use Hub and Transitional Districts	
LAND USE	MINIMUM REQUIREMENT
(e) Wholesale Sales and Distribution, Indoor	1 per 1,000 sf of floor area
<b>(9) Industrial</b>	
(a) Manufacturing, Light	1 per 1,000 sf of floor area
(b) Microbottler	1 per 2,000 sf of floor area
<b>(10) Other</b>	
(a) Telecommunication Facility	None
(b) Mural	None

By MR. Williams

No. 31489-16

**AN ORDINANCE**

Amending the Official Zoning Map to Rezone Property  
Located at 129 South Perry Street, and Declaring an  
Emergency.

**WHEREAS**, An application has been made by Sinclair Community College to rezone property located at 129 South Perry Street from Central Business District (CBD) to Campus-Institutional (CI) to allow for an addition to the building on the property; and,

**WHEREAS**, The City Plan Board, at its March 8, 2016, meeting, Case Z-002-2016, recommended approval of the request; and,

**WHEREAS**, There is a commitment to implement the project in a timely manner to provide needed services and employment opportunities; and,

**WHEREAS**, To meet the foregoing commitment and provide for the immediate preservation of the public peace, property, health or safety, it is necessary that this ordinance take effect immediately upon its passage, now, therefore,

**BE IT ORDAINED BY THE COMMISSION OF THE CITY OF DAYTON:**

Section 1. In accordance with the recommendation of the City Plan Board, as made in Case Z-002-2016, 129 South Perry Street is rezoned from Central Business District (CBD) to Campus-Institutional (CI). The property to be rezoned has a City Lot Number of 77778 and Parcel Identification Numbers of R72 00413 0001 and R72 00413 0006. The City's official zoning map shall be redrawn to reflect the rezoning of this property from Central Business District (CBD) to Campus-Institutional (CI).

Section 2. For the reasons stated in the preamble hereof, this Ordinance is declared to be an emergency measure and shall take effect immediately upon its passage.

Passed by the Commission MAY 4, 2016

Signed by the Mayor MAY 4, 2016

nan Whaley  
Mayor of the City of Dayton, Ohio

Attest:

Rashella Lavender  
Clerk of the Commission

Approved as to form:

Dwight R. Donaldson Jr.  
City Attorney

By MR. Mims

No. 31490-16

**AN ORDINANCE**

Amending, Enacting, or Repealing Various Sections of the Revised Code of General Ordinances Relating to the Zoning Code, and Declaring an Emergency.

**WHEREAS**, Effective, expeditious, and responsible regulation of land requires that the City Commission review and amend certain sections of the Revised Code of General Ordinances relating to the Zoning Code to correct omissions, clarify terminology and provisions, make certain regulations consistent from one zoning district to another, and update regulations to reflect experience to date and emerging best practices; and

**WHEREAS**, The City Plan Board, at its March 8, 2016, meeting, in Case Z-003-2016, recommended approval of amendments to various sections of the Revised Code of General Ordinances relating to the Zoning Code; and

**WHEREAS**, It is necessary for the immediate preservation of the public peace, property, health and safety that this ordinance take effect immediately upon passage; now, therefore,

**BE IT ORDAINED BY THE COMMISSION OF THE CITY OF DAYTON:**

Section 1. That Section 150.110.4(H), Administrative Powers and Duties, Board of Zoning Appeals, Finality of Decisions of the Board of Zoning Appeals, of the Revised Code of General Ordinances, is amended as follows:

- (H) Finality of Decisions of the Board of Zoning Appeals. A decision by the Board of Zoning Appeals shall be final subject only to judicial review in accordance with law. If judicial review is sought, such appeal shall be filed within thirty (30) days of the decision by the Board of Zoning Appeals. Unless prohibited by law, the City of Dayton may seek judicial review of decisions by the BZA.

Section 2. That Section 150.110.5(D)(1), Administrative Powers and Duties, Landmark Commission, Organization of the Landmark Commission, Preservation Officer, of the Revised Code of General Ordinances, is amended as follows:

- (1) Preservation Officer. The Director of Planning and Community Development or his designee shall act as the Preservation Officer and shall approve, modify, or disapprove minor modifications and those major modifications specifically assigned to the Preservation Officer by resolution of the Landmark Commission; shall be responsible for complying with all applicable Federal regulations as outlined in the Historic Preservation Act, as

amended; shall coordinate with the State Historic Preservation Office on issues pertaining to the City's Certified Local Government status; shall be responsible for public outreach, promotion and education for historic preservation; shall be responsible for formation of historic preservation policy; shall perform such other duties provided by this Section or requested by the Landmark Commission; and shall enforce the provisions of this Zoning Code as outlined in Section 150.130.3.

Section 3. That Section 150.115.4(B), Site Design Review Procedures, Site Design Review, Major Site Design Review, of the Revised Code of General Ordinances, is amended as follows:

- (B) Major Site Design Review. The Plan Board shall have decision-making authority for Major Site Design Plan Review as provided for:
  - (1) In Section 150.600, Regulations for Wireless Telecommunication Facilities;
  - (2) In Section 150.925, Off-Premise Sign Regulations; and
  - (3) In any other provision of this Zoning Code.

Section 4. That Section 150.120.7, Appeals and Variances, Decision of the BZA (Appeals or Variances) of the Revised Code of General Ordinances, is amended as follows:

The procedures for rendering a decision on appeals or variances are as follows:

- (A) Where it is alleged there is an error in any order, requirement, decision, interpretation or determination (all hereinafter referred to collectively as "decision") made under this Zoning Code by the Zoning Administrator, except for decisions regarding site design plans that are to be appealed to the Plan Board, the Board of Zoning Appeals may reverse or affirm, wholly or in part, the decision being appealed. The BZA may affirm, reverse or remand, in whole or part, a denial by the Landmark Commission as regulated by Section 150.345.21. In making its decision to reverse or affirm, the BZA may direct the issuance of a permit or certificate.
- (B) The BZA shall render a written decision on the appeal within 30 days after the close of the hearing.
- (C) The Board of Zoning Appeals shall approve, approve with supplemental conditions or disapprove the appeal or request for a variance. If the BZA fails to act within thirty (30) days after the close of the hearing, the appellant may determine that the appeal or variance has been denied.

- (D) The concurring vote of a majority of the appointed members of the BZA shall be necessary to grant a variance. Appointed members shall be considered as those complying with Section 150.110.4 (A).
- (E) In the instance of an appeal where it is alleged there is error in any order, requirement, decision, interpretation or determination (all hereinafter referred to collectively as “decision”) made under the Zoning Code by the Zoning Administrator, except for decisions regarding site design plans that are to be appealed to the Plan Board, the concurring vote of a majority of the appointed members of the BZA shall be necessary to reverse or modify any decision of the Zoning Administrator. Appointed members shall be considered as those complying with Section 150.110.4 (A). Additionally, in the case of such an appeal, in order to overturn or modify the decision of the Zoning Administrator, the appellant must demonstrate to the BZA that there is clear and convincing evidence indicating that the Zoning Administrator’s decision was made in error.
- (F) The BZA shall transmit a copy of its decision to the applicant or appellant and a copy shall be filed with the Zoning Administrator.
- (G) Once the appellant or applicant has received the BZA’s decision, he/she may submit an application for a zoning certificate or conditional use permit that complies with the BZA’s decision. A copy of the BZA’s decision shall be attached to the application.

Section 5. That Section 150.120.11, Appeals and Variances, Finality of Decisions on Appeals and Variances, of the Revised Code of General Ordinances is amended as follows:

A decision by the Board of Zoning Appeals shall be final subject only to judicial review in accordance with law. If judicial review is sought, such appeal shall be filed within thirty (30) days of the decision by the Board of Zoning Appeals. Unless prohibited by law, the City of Dayton may seek judicial review of decisions by the BZA.

Section 6. That Section 150.130.3, Fees, Penalties and Enforcement, Enforcement, of the Revised Code of General Ordinances is amended as follows:

- (A) The powers and duties of the Zoning Administrator in enforcing the provisions of this Zoning Code include, but are not limited to, the following:
  - (1) Investigate, with or without a complaint, alleged violations of this Zoning Code and/or land use plans in urban renewal project areas;

- (2) Issue notices and orders and take other administrative actions as authorized to enforce the provisions of this Zoning Code and/or land use plans in urban renewal project areas;
  - (3) Deny applications for permits, certificates and approval of plans in violation of this Zoning Code and/or land use plans in urban renewal project areas, and revoke permits, certificates and plans approved for a change in use or occupancy of a property or structure in violation of this Zoning Code and/or land use plans in urban renewal project areas;
  - (4) Assess civil penalties and file misdemeanor complaints and minor misdemeanor citations for violations of this Zoning Code and/or land use plans in urban renewal project areas; and
  - (5) Appear and testify in judicial and quasi-judicial proceedings as required in enforcing this Zoning Code and/or land use plans in urban renewal project areas.
- (B) The powers and duties of the Preservation Officer in enforcing the provisions of this Zoning Code include, but are not limited to, the following:
- (1) Investigate, with or without a complaint, alleged violations of this Zoning Code as they relate to property designated as HD-1, HD-2, or HD-3; and
  - (2) Issue notices and orders and take other administrative actions as authorized to enforce the provisions of this Zoning Code as they relate to property designated as HD-1, HD-2, or HD-3.
  - (3) Appear and testify in judicial and quasi-judicial proceedings as required in enforcing this Zoning Code and/or land use plans in urban renewal project areas.

Section 7. That Sections 150.140.4(A) and (B), Non-Conforming Uses, Buildings, Structures, and Lots, Non-Conforming Use of Buildings and Land, Maintenance, and Alteration or Reconstruction of a Building Occupied by a Non-Conforming Use, of the Revised Code of General Ordinances, are amended as follows:

(A) Maintenance

- (1) Routine Maintenance. Work may be done on routine maintenance and repairs, or on repair or replacement of interior walls, fixtures, wiring or plumbing.

- (2) Buildings Devoted to Residential Uses in an Industrial District. Buildings devoted to a non-conforming residential use in an Industrial District may be maintained, repaired, improved, modernized or enlarged. However, no increase in the number of units shall be permitted.
  
- (B) Improvement or Reconstruction of a Building/Structure Occupied by a Non-Conforming Use.
  - (1) No building or structure occupied by a non-conforming use shall be improved or reconstructed except for routine maintenance or except when the use is changed to a use permitted in the district in which it is located or upon prior approval of the Board of Zoning Appeals, and then only if the cumulative cost of the alteration, reconstruction, or improvement does not exceed 50% of the building's and/or structure's replacement value. Determination of said replacement value shall not include factors such as geographic location or non-conforming status.
  
  - (2) Nothing in this Zoning Code shall prevent the strengthening or restoring to a safe condition of a building or other structure in accordance with the order of a public official who is charged with protecting the public safety and who declares such building or other structure to be unsafe and orders its restoration to a safe condition.

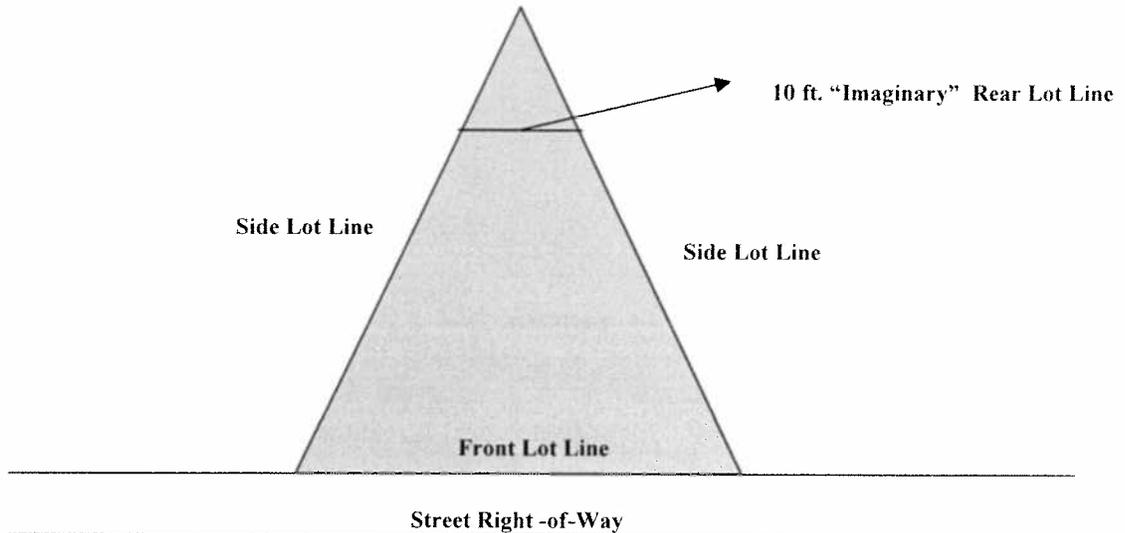
Section 8. That Section 150.200.2, Definitions, Definitions (38), (39), (40), (41), (41A), (92), (125), (137A), and (163) of the Revised Code of General Ordinances are amended as follows, and Definitions (160A), (243A), and (245A) of the Revised Code of General Ordinances, are enacted as follows:

- (38) **Co-location.** The use of a wireless telecommunications facility by more than one wireless telecommunications provider or by one provider for more than one type of telecommunication technology.
  
- (39) **Commercial motor vehicle.** Any motor vehicle designed or used to transport persons, property, merchandise or freight primarily for-profit as defined in Ohio Revised Code Section 4506.01 (E).
  
- (40) **Common area.** Any land area and/or facilities that is held in common ownership by the residents through a homeowners' association, community association or other legal entity, or which is held by the individual members of a condominium association as tenants-in-common.

- (41) **Community center.** A building or group of buildings operated by a public or nonprofit group or agency and used for recreational, social, educational or cultural activities.
- (41A) **Community garden.** The use of land for the purpose(s) of harvesting, farming, gardening, beekeeping, or composting that is on a property of less than one acre and does not include the keeping of livestock.
- (92) **Funeral home.** A building or part thereof used for human funeral services. Such building may contain space and facilities for: (a) embalming and the performance of other services used in preparation of the dead for burial; (b) the performance of autopsies and other surgical procedures; (c) the storage of caskets, funeral urns, and other related funeral supplies; (d) the storage of funeral vehicles, and (e) accessory facilities for cremation. Where a funeral home is permitted, a funeral chapel shall also be permitted.
- (125) **Lot line.** The boundary line defining the limits of the lot. Lot line is synonymous with "property line."
- (a) **Lot line, front:** The line separating an interior lot from the street right-of-way on which the lot fronts.
- On a corner lot, the street right-of-way with the least amount of street frontage shall be the front lot line. If the dimensions of a corner lot are within twenty (20) percent or less of being equal, the Zoning Administrator may establish either street frontage as the front lot line. On corner lots with an existing principal building, the Zoning Administrator may establish the line that faces the building entrance as the front lot line.
- (b) **Lot line, rear:** The lot line opposite and most distant from the front lot line; or in the case of triangular or otherwise irregularly shaped lots, an imaginary line ten (10) feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line. See also Figure 4.
- (c) **Lot line, side:** Any lot line other than a front or rear lot line.

Figure 4

Illustration of Lot Lines with an Irregularly Shaped Lot



- (137A) **Microbottler.** A facility for the production and packaging of beverages for distribution, retail and/or wholesale, on or off premise. The production and packaging shall be limited to a total area of less than 31,000 square feet. This term shall not include a “Brewpub” or “Restaurant, indoor dining.”
- (160A) **Overhead primary electric distribution line.** A non-insulated electric power line that supplies the higher voltage to a transformer that provides a lower voltage for a customer’s service lines. This line is found at the tops of power poles, either on a cross arm, or a single insulated pin. Secondary (service-voltage current) power lines, telephone, cable television (CATV) and Greater Dayton Regional Transit Authority (GDRTA) lines are excluded from this category.
- (163) **Parking lot.** An outdoor paved area made up of marked parking spaces where motor vehicles may be stored for the purpose of temporary off-street parking. Also known as a parking area. This term does not include motor vehicle sales lots and areas used for the outdoor storage of vehicles.
- (243A) **Urban Renewal Project Area.** A geographic area defined in an urban renewal plan pursuant to Chapter 45 of the R.C.G.O.
- (245A) **Utility trailer.** A small non-motorized vehicle which is generally pulled by a motorized vehicle and features an open-top or enclosed cargo area and is used for hauling.

Section 9. That Section 150.300.1(D), Districts Established: Map and Boundaries, Districts Established, Other Districts, of the Revised Code of General Ordinances, is amended as follows:

(D) Other Districts

- CI Campus-Institutional District
- AP Airport District
- HD-1 Historic Overlay District
- HD-2 Historic Overlay District
- HD-3 Historic Overlay District
- PD Planned Development
- UP Urban Preservation Overlay District
- WO Well Head Operation District
- WP Water Protection Overlay District
- OS Park/Open Space District

Section 10. That Section 150.300.6, Districts Established: Map and Boundaries, Urban Renewal Project Area and Land Use Regulations, of the Revised Code of General Ordinances, of the Revised Code of General Ordinances, is enacted as follows:

Urban renewal project areas are shown on the official zoning map. Urban renewal plans associated with such project areas contain Land Use Plans. When such Land Use Plans conflict with the provisions of this Zoning Code, the Land Use Plans shall prevail.

Section 11. That Schedule 150.305.2, Single-Family Residential Districts, Use Regulations, Permitted Uses in Single-Family Residential Districts, of the Revised Code of General Ordinances, is amended as shown in Exhibit A, attached hereto and incorporated herein.

Section 12. That Section 150.305.5(F), Single-Family Residential Districts, Accessory Use Regulations, Additional Regulations for Vehicles, of the Revised Code of General Ordinances, is amended as follows:

(F) Additional Regulations for Vehicles.

- (1) The repainting, rebuilding, overhauling or dismantling of a vehicle or the storage of tires, motor, body or other parts is prohibited.

- (2) The overnight parking or the outdoor storage of commercial motor vehicles over one (1) ton rated capacity and/or buses is prohibited.
- (3) Accessory off-street parking spaces located in the front yard shall only adjoin the driveway between the driveway and the nearest side lot line, provided parking spaces shall not be located directly in front of the dwelling. In no case shall accessory off-street parking spaces be separated from the driveway and located in the required front setback.
- (4) If a vehicle and/or utility trailer is parked or stored outside, it shall be parked on an impervious surface, such as asphalt or concrete. The area surrounding the parked or stored vehicle and/or utility trailer shall be maintained pursuant to all applicable City ordinances, codes, standards, and regulations.
- (5) For single-family detached dwellings, no more than five (5) vehicles, including recreational vehicles/equipment and/or utility trailers, shall be parked or stored outside. For two-family dwellings, each dwelling unit shall have no more than four (4) vehicles, including recreational vehicles/equipment and/or utility trailers, parked or stored outside.

Section 13. That Schedule 150.320.2, Downtown Districts, Permitted Uses, Permitted Uses in Downtown Districts, of the Revised Code of General Ordinances, is amended as shown in Exhibit B, attached hereto and incorporated herein.

Section 14. That Section 150.320.8(B)(4)(b)(i), Downtown Districts, Accessory Use Regulations, Fences and Walls, Screening and Landscaping, of the Revised Code of General Ordinances, is amended as follows:

- (b) All fences, other than ornamental fences, when visible from public streets, shall be visually softened and reasonably screened from the street with appropriate landscaping as follows:
  - (i) Fences that are located within required building and parking setbacks shall be considered appropriately screened when the landscaping required in subsection 150.800.5, Landscaping Requirements Along Street Frontages, is planted within five (5) feet of the fence and between the fence and the property line.

Section 15. That Schedule 150.320.10, Downtown Districts, Required Design Elements, Pedestrian Oriented Design Principles, of the Revised Code of General Ordinances, is amended as shown in Exhibit C, attached hereto and incorporated herein.

Section 16. That Schedule 150.325.2, Commercial Districts, Permitted Uses, Permitted Uses in Commercial Districts, of the Revised Code of General Ordinances, is amended as shown in Exhibit D, attached hereto and incorporated herein.

Section 17. That Section 150.325.8(B)(4)(b)(i), Commercial Districts, Accessory Use Regulations, Fences and Walls, Screening and Landscaping, of the Revised Code of General Ordinances, is amended as follows:

- (b) All fences, other than ornamental fences, when visible from public streets, shall be visually softened and reasonably screened from the street with appropriate landscaping as follows:
  - (i) Fences that are located within required building and parking setbacks shall be considered appropriately screened when the landscaping required in subsection 150.800.5, Landscaping Requirements Along Street Frontages is planted within five (5) feet of the fence and between the fence and the property line.

Section 18. That Schedule 150.330.2, Mixed-Use and Transitional Districts, Permitted Uses, Permitted Uses in the Mixed-Use and Transitional Districts, of the Revised Code of General Ordinances, is amended as shown in Exhibit E, attached hereto and incorporated herein.

Section 19. That Sections 150.330.5(B) and (C), Mixed-Use and Transitional Districts, Off-Street Parking Requirements, Parking Location, and Off-Street Parking Areas, of the Revised Code of General Ordinances, are amended as follows:

- (B) Parking Location. Off-street parking lots shall be located at the rear or side of the principal building. The Plan Board, the Board of Zoning Appeals, or the Zoning Administrator, whichever is applicable according to the procedures in Section 150.115, may grant an exception to this requirement where necessary due to the shallow depth of the parcel, the location of mature trees or other significant environmental features, the location of historical buildings/structures, the proximity of residential uses, or other similar circumstances. If an exception is granted and off-street parking spaces are adjacent to a public street, a three (3) to four (4) foot masonry knee wall may be required in addition to Section 150.800.9 (B), Screening and Section 150.800.5, Landscaping Requirements Along Street Frontages.

If a vehicle and/or utility trailer is parked or stored outside, it shall be parked on an impervious surface, such as asphalt or concrete. The area surrounding the parked or stored vehicle and/or utility trailer shall be maintained pursuant to all applicable City ordinances, codes, standards, and regulations.

- (C) Off-Street Parking Areas. Off-street parking areas shall conform to the regulations in Section 150.800.9, Screening and Landscaping of Parking Lots. For single-family detached dwellings, no more than five (5) vehicles, including recreational vehicles/equipment and/or utility trailers, shall be parked or stored outside. For two-family dwellings, each dwelling unit shall have no more than four (4) vehicles, including recreational vehicles/equipment and/or utility trailers, parked or stored outside.

Section 20. That Section 150.330.6(D)(4)(b)(i), Mixed-Use and Transitional Districts, Accessory Use Regulations, Fences, Screening and Landscaping, of the Revised Code of General Ordinances, is amended as follows:

- (b) All fences, other than ornamental fences, when visible from public streets, shall be visually softened and reasonably screened from the street with appropriate landscaping as follows:
  - (i) Fences that are located within required building and parking setbacks shall be considered appropriately screened when the landscaping required in subsection 150.800.5, Landscaping Requirements Along Street Frontages, is planted within five (5) feet of the fence and between the fence and the property line.

Section 21. That Schedule 150.335.2, Campus-Institutional District, Permitted Uses, Permitted Uses in the Campus-Institutional District, of the Revised Code of General Ordinances, is amended as shown in Exhibit F, attached hereto and incorporated herein.

Section 22. That Section 150.335.5(A), Campus-Institutional District, Off-Street Parking Requirements, of the Revised Code of General Ordinances, is amended as follows:

- (A) Schedule 150.335.5. Minimum Parking Setbacks.

<b>Schedule 150.335.5</b>		
<b>Minimum Parking Setbacks for Surface Parking Lots</b>		
	<b>When more than 150 feet from the Campus-Institutional Zoning District Boundary</b>	<b>When 150 feet or less from the Campus-Institutional Zoning District Boundary</b>
(1) Setback from public street rights-of-way	10 feet <sup>2</sup>	1,2
(2) Setback from an alley	3 feet	3 feet
(3) Setback from abutting residential district boundary	25 feet	25 feet <sup>2</sup>
(4) Setback from all other lot lines		15 feet <sup>2</sup>
<b>Notes to Schedule 150.335.5:</b>		
<sup>1</sup> This setback shall be specifically reviewed during the conditional use process according to the principles in sub-section 150.335.9, Development and Design Guidelines.		
<sup>2</sup> As further regulated by Section 150.335.9 (C ), Design of Parking Areas for Permitted & Conditional Uses		

Section 23. That Section 150.335.6(A), Campus-Institutional District, Accessory Use Regulations, Accessory Buildings, of the Revised Code of General Ordinances, is amended as follows:

- (A) Accessory Buildings. Accessory buildings shall conform to all lot and setback regulations for principal buildings and shall be reviewed according to the site design plan review procedures in Section 150.115, except as provided for in Section 150.335.6(E).

Section 24. That Schedule 150.340.2, Industrial Districts, Permitted Uses, Permitted Uses in the Industrial Districts, of the Revised Code of General Ordinances, is amended as shown in Exhibit G, attached hereto and incorporated herein.

Section 25. That Section 150.345.1(E), Historic Overlay Districts, Purposes, of the Revised Code of General Ordinances, is amended as follows:

- (E) To this end, this Section authorizes the adoption of overlay historic districts and creates a Secretary to the Landmark Commission and a Preservation Officer to review and approve architectural modifications that affect the historic quality of such properties and districts.

Section 26. That Section 150.345.2, Historic Overlay Districts, Designation of Historic District, of the Revised Code of General Ordinances, is amended as follows:

The Landmark Commission shall recommend to the City Plan Board the adoption or modification of a historic district overlay on all eligible areas in accordance with

Section 150.125, Amendments. The boundaries of each such district shall be indicated on the official zoning map.

- (A) The HD-1 Historic District Overlay (HD-1) is an overlay district designed to preserve and protect single parcels or groups of historic properties, including properties listed on the National Register of Historic Places. The district may include a number of non-qualifying properties, undeveloped parcels, or contributing properties that have not undergone rehabilitation.
- (B) The HD-2 Historic District Overlay (HD-2) is an overlay district designed to preserve and protect single parcels or groups of historic properties, listed on the National Register of Historic Places, in which the district as a whole consists primarily of historically or architecturally significant properties which have undergone rehabilitation or restoration.
- (C) The HD-3 Historic Designation Overlay (HD-3) is an overlay district for properties that have been determined by the Landmark Commission, in accordance with sub-section 150.345.4 (C), be historically significant and by doing so, has determined that the loss of these properties is an irreversible act worthy of review.
- (D) All properties designated as HD-1, HD-2, or HD-3 are collectively called the Dayton Register of Historic Landmark Properties.

Section 27. That Section 150.345.3, Historic Overlay Districts, Nomination of Historic District, of the Revised Code of General Ordinances, is amended as follows:

- (A) HD-1 Historic District Overlay.
  - (1) Any area eligible under this Section may be nominated for a HD-1 Historic District Overlay by a petition signed by property owners representing a majority of the parcels in the proposed area. The petition shall be in a form prescribed by the Landmark Commission and filed with the Clerk of the City Commission.
  - (2) The Clerk shall transmit the nomination to the Landmark Commission.
  - (3) The Landmark Commission shall determine the eligibility of the proposed area. If the area is eligible and the petition is valid, the Landmark Commission may ask the Plan Board to initiate an amendment to the official zoning map, which includes controls on particular parcels, for all or part of the original proposed area in accordance with Section 150.125, Amendments. The Plan Board may choose to initiate the amendment as proposed, initiate

the amendment with modifications, or decline to initiate the amendment.

(B) HD-2 Historic District Overlay.

- (1) Any area eligible under this Section may be nominated for a HD-2 Historic District Overlay by a petition signed by property owners representing a majority of the parcels in the proposed area.
- (2) Any single parcel eligible under this Section may be nominated for a HD-2 Historic District Overlay by its owner or a member of the Landmark Commission. The nomination shall be in a form prescribed by the Landmark Commission and filed with the Clerk of the City Commission.
- (3) The Clerk shall transmit the nomination to the Landmark Commission.
- (4) The Landmark Commission shall determine the eligibility of the proposed area. If the area is eligible and the petition is valid, the Landmark Commission may ask the Plan Board to initiate an amendment to the official zoning map, which includes controls on particular parcels, for all or part of the original proposed area in accordance with Section 150.125, Amendments. The Plan Board may choose to initiate the amendment as proposed, initiate the amendment with modifications, or decline to initiate the amendment.

(C) HD-3 Historic District Overlay.

- (1) Any property eligible under this Section may be nominated for a HD-3 Historic District Overlay by the owner of the property or by the Landmark Commission. The nomination shall be in a form prescribed by the Landmark Commission and filed with the Clerk of the City Commission.
- (2) The Clerk shall transmit the nomination to the Landmark Commission.
- (3) Any single property determined to be eligible for or listed on the National Register of Historic Places may be nominated for a HD-3 Historic District Overlay.
- (4) The Landmark Commission shall determine the eligibility of the proposed properties. If the properties are eligible, the Landmark Commission may ask the Plan Board to initiate an amendment to the official zoning map, which includes controls on particular

parcels, for all or part of the original proposed area in accordance with Section 150.125, Amendments. The Plan Board may choose to initiate the amendment as proposed, initiate the amendment with modifications, or decline to initiate the amendment.

Section 28. That Section 150.345.4(C), Historic Overlay Districts, Boundaries, of the Revised Code of General Ordinances, is amended as follows:

- (C) HD-3 Historic District Overlay. Individual properties with a HD-3 Historic District Overlay have been determined to have historical significance by the Landmark Commission. When a property is designated as HD-3, the designation may apply to the entire parcel on which the property is located.

Section 29. That Section 150.345.5(C), Historic Overlay Districts, Activities Governed, of the Revised Code of General Ordinances, is amended as follows:

- (C) HD-3 Historic District Overlay. Any request for a demolition permit will require a Certificate of Appropriateness from the Landmark Commission. The Landmark Commission will review the request in accordance with sub-section 150.345.9, Removal of a Structure.

Section 30. That Section 150.345.7(A)(4), Historic Overlay Districts, Class of Architectural Modifications, Major Modifications, of the Revised Code of General Ordinances, is amended as follows:

- (4) Installation of new signage or a wall mural.

Section 31. That Section 150.345.14(B)(4), Historic Overlay Districts, Signs, Permitted Signs, of the Revised Code of General Ordinances, is amended as follows:

- (4) Short-term or temporary signs are permitted and no Certificate of Appropriateness is required, provided, they are only displayed for a maximum of seven consecutive days in each 90 day period, have a maximum size of 20 inches by 30 inches and only one such sign may be displayed. Wall murals shall not be considered short-term or temporary signs.

Section 32. That Section 150.345.20(B)(1), Historic Overlay Districts, Review by Landmark Commission, of the Revised Code of General Ordinances, is amended as follows:

- (1) The Secretary of the Landmark Commission shall notify, in writing, the applicant, as well as the owner(s) of the subject property, of the time and place of the hearing not less than seven (7) days before the date of the hearing. No other notice shall be required.

Section 33. That Section 150.345.21, Historic Overlay Districts, Appeal of Landmark Commission Decision, of the Revised Code of General Ordinances, is amended as follows:

If the application is denied by the Landmark Commission, the applicant or any interested party of record may request a hearing before the Board of Zoning Appeals within fourteen (14) days following the date of decision in the manner provided for in Section 150.120, Appeals and Variances. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the BZA, after notice of appeal has been filed with him/her, that by reason of facts stated in the certificate a stay would, in his/her opinion, cause imminent peril to life or property. In such case, the proceedings shall not be stayed.

Using only the standards set forth in Section 150.345, the Board of Zoning Appeals may affirm, reverse, or remand, in whole or in part, the decision of the Landmark Commission, except that a decision to reverse shall require the concurrence of a majority of the appointed members and shall be based on one of the following findings:

- (A) That the Landmark Commission erred in its application of the Architectural Design Standards; or
- (B) That the Landmark Commission committed procedural error which substantively affected the rights of the applicant or the rights of any interested party of record to a Certificate of Appropriateness.

Section 34. That Section 150.365.1(D), Park/Open Space District, Purposes, of the Revised Code of General Ordinances, is amended as follows:

- (D) To accommodate a wide variety of private, public and quasi-public open spaces, institutions, and facilities, including parks, wooded and natural habitats, golf courses, cemeteries, recreation/sports facilities and concessions, and agricultural land. These areas provide cultural and recreation opportunities; protect and preserve natural and scenic areas; protect sensitive natural resource areas; and offer refuge from the built, urban environment.

Section 35. That Schedule 150.365.2, Park/Open Space District, Permitted Uses, Permitted Uses in the Park/Open Space District, of the Revised Code of General Ordinances, is amended as shown in Exhibit H, attached hereto and incorporated herein.

Section 36. That Section 150.375, Sections 150.375.1 through 150.375.6 inclusive, Graphics Overlay Districts, of the Revised Code of General Ordinances, is repealed in its entirety.

Section 37. That Section 150.420.1(A)(1), (2) and (3), Supplemental District Regulations, Bee Keeping, Number, Locations and Setbacks, and Fences and Shrubs, of the Revised Code of General Ordinances, are amended as follows:

(A) In Residential Districts, the following regulations shall apply.

(1) Number. No beehive shall be kept on a zoning lot less than 3,000 square feet in area. A maximum of two hives are permitted on zoning lots between 3,000 and 7,000 square feet in area. Additional hives may be added at the rate of one (1) hive for every additional 3,000 square feet of lot area.

(2) Locations and Setbacks. No beehive shall be kept closer than ten (10) feet from any lot line and ten (10) feet from a dwelling or the permitted placement of a dwelling on another lot. No beehive shall be kept in a required front setback or corner side setback. No hive shall be placed within thirty (30) feet of any public sidewalk or roadway. The front of any beehive shall face away from the property line of the residential lot closest to the beehive.

Rooftop hives shall be setback six (6) feet from the edge of a roof. Hives located within twenty (20) feet of a door or window of an abutting lot must face away from such doors or windows or a flyway barrier as outlined in 150.420.1(A)(3) shall be applied.

(3) Fences and Shrubs. A solid fence or dense living hedge at least six (6) feet in height shall be placed along the side or rear property line for any hive within ten (10) feet of the lot line. The solid fence or dense living hedge shall extend at least twenty (20) feet on either side of the hive. A “flyway barrier” consisting of solid fence or dense living hedge shall be required along the property line if the front of the beehive is located within twenty-five (25) feet from any lot lines. No flyway barrier shall be required for a beehive that is located on a porch or balcony at least ten (10) feet above grade, except if such porch or balcony is located less than ten (10) feet from a property line.

Rooftop hives located within twenty (20) feet of a door or window of an abutting lot shall provide a six (6) feet high flyway barrier comprised of a lattice fence, dense living hedge, or similar material. The flyway barrier must be established in front of the opening of the beehive such that the bees fly upward and away from neighboring properties. The flyway barrier shall be located within three (3) feet of the front of the beehive and shall extend at least two (2) feet in width on either side of the front of the beehive.

Section 38. That Section 150.420.2(G), Supplemental District Regulations, Performance Standards, Odors, of the Revised Code of General Ordinances, is amended as follows:

- (G) Odors. No use shall emit malodorous gas or matter that is discernible on any adjoining lot or property. No use shall allow for the bedding, fur, feathers, feces, and/or urine of domestic animals to collect or remain on the premises whereby noxious odors or offensive smells are generated and discernable on any adjoining lot or property.

Section 39. That Section 150.445(C), Supplemental District Regulations, Vacation of Rights-of-Way, Expiration of Conditions, of the Revised Code of General Ordinances, is amended as follows:

- (C) Expiration of Conditions. Conditions established by the Plan Board shall be valid for a period of twelve (12) months or any other period of time established by the Plan Board. The Secretary of the Plan Board may grant one twelve (12) month extension upon written request, without action by the Plan Board, provided the Board is notified of the extension.

Section 40. That Section 150.558, Conditional Use and Specific Use Regulations, Finality of Decisions, of the Revised Code of General Ordinances, is amended as follows:

Decisions by the Board of Zoning Appeals granting or denying a conditional use shall be final subject only to judicial review in accordance with law. If judicial review is sought, such appeal shall be filed within thirty (30) days of the decision by the Board of Zoning Appeals. Unless prohibited by law, the City of Dayton may seek judicial review of decisions by the BZA.

Section 41. That Section 150.565.15, Crematorium, Incinerator, of the Revised Code of General Ordinances, is amended as follows:

The specific regulations for a crematorium/incinerator, except those accessory to funeral homes, shall be as follows:

- (A) The minimum lot size shall be ten (10) acres.
- (B) Such uses shall be located on an arterial or higher street classification.
- (C) Such uses shall obtain all required permits and approvals from the State of Ohio and/or any other applicable permitting authority. All documentation submitted to these authorities, to obtain approval, shall also be submitted as part of the application for a conditional use permit.

- (D) The structure housing the crematorium and the incinerator shall be setback a minimum of 1000 feet from any property line that is adjacent to a residential zoning district boundary, a residential use, a school, or a park. If the facility is not adjacent to these uses or zoning districts, the structure housing the crematorium and the incinerator shall be setback 300 feet from all lot lines.
- (E) Within the setback required in the sub-section 150.565.15 (D) above, a buffer yard, with a minimum width of fifty (50) feet, shall be planted with large and small evergreen trees and one row of evergreen shrubs. The large evergreen trees shall be at least six (6) feet in height when planted and allowed to grow to a minimum of ten (10) feet. The small evergreen trees shall be at least four (4) feet in height when planted and permitted to grow to a minimum of six (6) feet.
- (F) All outdoor activities and storage associated with these facilities shall be entirely enclosed within a solid wall or fence, which includes solid gates. The minimum height is ten (10) feet. Items shall not be piled or stored higher than the top of the fence or wall and in no case shall stored items be visible from adjacent properties.
- (G) Applications for incinerators shall include all of the information required for a conditional use and such additional information as may be required to evaluate the proposal and mitigate adverse impacts, and the following:
  - (1) A description of the sources of the waste to be disposed of and a detailed description of the physical and chemical properties of both the waste and its degradation products which may cause or contribute to harm to the public health, the environment, or which may otherwise create a nuisance.
  - (2) A description of all of the land necessary, required or to be used in any way for the facility or site, including but not limited to, buffers, monitoring/control stations, sedimentation ponds, leachate management system and all land shall be included in the conditional use application.
  - (3) An environmental impact statement that includes an analysis of all physical, social, cultural and economic components of the environment and actions necessary to mitigate adverse impacts.
  - (4) A description, plan and timetable for routine maintenance and cleaning of access routes and other off site facilities and improvements required to bring access routes and facilities up to City standards.
  - (5) A description, plan and timetable for site preparation activities, including, but not limited to time, schedules, hours of operation,

mitigating actions to ensure compliance with all applicable federal, state and local construction standards.

- (6) A description, plan and timetable for construction and/or development activities, including, but not limited to time schedules, hours of operation, mitigating actions to ensure compliance with all applicable federal, state and local construction standards.
- (7) A description, plan and timetable for operating and closure activities, including, but not limited to, time schedules, hours of operation, mitigating actions to ensure compliance with all applicable federal, state and local construction standards.
- (8) A description, plan and timetable for post-closure activities and monitoring, if applicable.

Section 42. That Section 150.565.17(A), Conditional Use and Specific Use Regulations, Day Care Center, Adult or Child, General Requirements, of the Revised Code of General Ordinances, is amended as follows:

(A) General Requirements:

- (1) A copy of the site plan and descriptive plan of operation, as submitted to the applicable state agency for licensing, shall be submitted with the application for a Conditional Use Permit or a Site Design Plan.
- (2) A drop-off/pick-up location, which will not impede traffic on or off the site, shall be provided to insure pedestrian safety.
- (3) All fencing shall comply with the requirements of the zoning district in which the facility is located.
- (4) Whenever an application is made in any **Residential District** for a building permit or certificate of occupancy for a day care center for thirty or more children and/or adults located in a school, community center, church, mosque, chapel, temple, synagogue, or public housing development, no occupancy certificate shall be issued until the applicant complies with the Conditional Use provisions in this Section, in addition to any and all other provisions of the Code as may be applicable.

Section 43. That Section 150.565.22(A), Conditional Use and Specific Use Regulations, Family Day Care Home for Seven (7) to Twelve (12) Children, General Requirements, of the Revised Code of General Ordinances, is amended as follows:

(A) General Requirements

- (1) A copy of the site plan and descriptive plan of operation, including procedures for dropping off and picking up children, submitted to the applicable State agency shall be submitted as part of the application.

Section 44. That Section 150.565.37(G), Conditional Use and Specific Use Regulations, Motor Vehicles Sales and Rental (Including Boats), of the Revised Code of General Ordinances, is amended as follows:

- (G) With the exception of areas devoted to motor vehicle sales and areas used for the outdoor storage of vehicles, vehicle parking areas shall comply with Section 150.800, Landscaping and Screening Regulations.

Section 45. That Section 150.565.42(E), Conditional Use and Specific Use Regulations, Parking Lot, Restricted, of the Revised Code of General Ordinances, is amended as follows:

- (E) All restricted parking lots with more than 10 parking spaces shall provide side and rear setbacks abutting a residential district of at least ten (10) feet. Front setbacks shall conform to the requirements of the underlying zoning district or ten (10) feet, whichever is greater. Screening shall be provided in accordance with the requirements in subsection 150.800.9 (B), Screening. If the parking lot does not abut a residential zoning district, the applicable parking setback requirements for the underlying district shall apply for the side and rear setbacks.

Section 46. That Section 150.565.53(A)(4), Conditional Use and Specific Use Regulations, Restaurant, Outdoor Dining, of the Revised Code of General Ordinances, is amended as follows:

- (4) The operators of outdoor dining shall maintain a clean, litter-free, and well-kept appearance within and immediately adjacent to the outdoor dining area.

Section 47. That Sections 150.565.80.5(A) and (E), Conditional Use and Specific Use Regulations, Wall Mural, of the Revised Code of General Ordinances, are amended as follows:

- (A) Wall murals shall not be permitted on the front façade of a building. In the HD-1 and HD-2 Historic Overlay Districts, wall murals shall conform to the requirements of Section 150.345.
- (E) The application for a wall mural shall include:

- (1) A color photographic or digital image of the proposed wall location in the context of adjoining properties, and a color image depicting the proposed wall mural to represent with general accuracy the appearance of the wall with the addition of the mural.
- (2) A description of the materials to be used.
- (3) Written permission from the owner of the building or structure on which the wall mural will be placed.

In lieu of written permission from the owner of the building or structure on which the wall mural will be placed, notice of intent to create the wall mural shall be mailed by certified mail and regular mail at least thirty days (30) days prior to the date of the creation of the mural to the owner of record of the property as it appears on the County Auditor's current list. The owner of record shall have 30 days from the issuance of the certified mail and regular mail to contact the Zoning Administrator and grant permission for the wall mural or deny permission for the wall mural. Should the owner of record not contact the Zoning Administrator during the thirty (30) day period, the Zoning Administrator may consider permission granted.

- (4) Any other information the Zoning Administrator deems necessary to review and evaluate the request.

Section 48. That Section 150.600.7(J), Regulations for Wireless Telecommunications Facilities, Standards Applicable to All Wireless Telecommunications Facilities, of the Revised Code of General Ordinances, is amended as follows:

- (J) All FAA regulations addressing safety marking and obstruction lighting shall be followed when necessary. Lighting for security purposes shall be permitted at the base of the wireless telecommunication tower.

Section 49. That Section 150.700.3, Off-Street Parking & Loading Regulations, Units of Measure, of the Revised Code of General Ordinances, is amended as follows:

In computing the number of parking spaces required by this Code, the following rules shall apply. Some parking requirement reductions are permissible pursuant to subsection 150.700.11:

- (A) Floor Area. Where floor area is designated as the standard for determining parking space requirements, "floor area" shall mean gross floor area, or the total area of all floors measured from the exterior faces of the building, unless otherwise specified. Any floor or part thereof used for storage or

packaging of merchandise as well as any kitchen areas, not to exceed twenty (20) percent of the total floor area, may be excluded.

- (B) Design Capacity. Where seating capacity is the standard for determining parking space requirements, “design capacity” shall mean the number of persons that can be legally accommodated according to the City of Dayton’s Building Code in the primary assembly room.
- (C) Employees. Where number of employees is the standard for determining parking space requirements, “employees” shall mean the maximum number of employees on any one shift plus one half of the maximum number of employees on a subsequent shift.
- (D) Fractional Numbers. Where the computation of parking spaces results in a fractional number, the number shall be rounded to the next higher whole number.
- (E) Parking Requirements for Uses Not Specified. When the off-street parking requirements for a use are not specifically defined herein, the parking facilities for such use shall be determined by the Zoning Administrator so as to be sufficient to meet all the parking needs of the proposed use, based on the parking standards for a specific use listed in Schedules 150.700.4 – 150.700.10 that the Zoning Administrator determines to be the most similar to the proposed use.

Section 50. That Schedule 150.700.7, Off-Street Parking & Loading Regulations, Off-Street Parking Requirements for Non-Commercial Uses in Commercial, Mixed-Use Hub and Transitional Districts, of the Revised Code of General Ordinances, is amended as shown in Exhibit I, attached hereto and incorporated herein.

Section 51. That Section 150.800.1, Landscaping & Screening Regulations, Purpose, of the Revised Code of General Ordinances, is amended as follows:

The preservation of existing trees and vegetation, as well as the planting of new trees and vegetation, can significantly add to the quality of the physical environment of the City of Dayton. The regulations contained below are designed to provide for the health, safety, and welfare of the residents of the City by:

- (A) Promoting the proper utilization of landscaping and screening as a buffer between certain land uses and to minimize the possibility of nuisances including potential noise, glare, and the visual clutter associated with parking and service areas;
- (B) Reducing the hazards of flooding and aid in the control of erosion and storm water runoff;

- (C) Providing physiologically, psychologically, sociologically, and aesthetically necessary counterpoints to the man-made urban environment;
- (D) Protecting, preserving, and promoting the aesthetic character valued by the residents of the City of Dayton; and
- (E) Restoring, protecting, preserving, and increasing a diverse, healthy tree canopy throughout the City of Dayton.

Section 52. That Section 150.800.5(A), Landscaping & Screening Regulations, Landscaping Requirements Along Street Frontages, Species and Location Requirements, of the Revised Code of General Ordinances, is amended as follows:

(A) Species and Location Requirements.

- (1) Trees shall be limited to species characterized as hardy, long-lived shade trees. Prohibited tree species are listed in Schedule 150.800.7. The Director of Public Works may prohibit tree species in addition to those listed in Schedule 150.800.7.
- (2) One tree shall be provided for every thirty (30) linear feet of frontage, or fraction thereof, along each road.
- (3) Trees are to be planted within ten (10) feet of the rights-of-way of the road or roads within and abutting the development. In those Zoning Districts with no required front or side setbacks, the street trees shall be located in the street right-of-way.
- (4) The planting of trees in the street right-of-way underneath overhead primary electric distribution lines is discouraged.
- (5) In those locations where an overhead primary electric distribution line exists, trees should be planted a minimum of ten (10) feet away from the overhead primary electric distribution line. If this is not possible due to an insufficient setback or right-of-way, the Zoning Administrator, Board of Zoning Appeals, or the Plan Board, whichever is applicable, may waive the required trees or request that the required trees be planted along a nearby street right-of-way or public park. Such alternate location should be approved by the Department of Public Works.
- (6) In the Downtown Districts, the Mature Neighborhood Commercial District, and the Mature General Commercial District, if the street right-of-way lacks a tree lawn, street trees shall be planted in sidewalk pits. The Division of Civil Engineering shall approve the location of these pits. The

minimum dimensions for such pits shall be 5 feet X 5 feet. If the sidewalk is too narrow to permit sidewalk pits of such a size, the Zoning Administrator may grant an exception to a dimension that would both accommodate a street tree and permit pedestrian traffic.

- (7) Each tree at the time of installation shall have a minimum caliper of between 2.0 and 2.5 inches and a clear trunk height of between five (5) and six (6) feet.
- (8) In those instances where eight (8) or more trees are to be planted, there shall be a minimum diversity of two (2) tree species planted at a minimum 3:2 ratio. The Zoning Administrator and the Director of Public Works may agree to waive this requirement if a single tree species is deemed an important design feature.
- (9) Trees shall be planted an adequate distance from intersections so that at full maturity such planting shall comply with sub-section 150.410, Visibility at Intersections, to ensure the unobstructed visibility of motorists and pedestrians.

Section 53. That Section 150.800.6(B), Landscaping & Screening Regulations, Maintenance & Removal of Trees Within the Street Right-of-Way, Removal, of the Revised Code of General Ordinances, is amended as follows:

- (B) Removal. Trees within street rights-of-way shall not be removed without written approval from the Department of Public Works. Any tree that is removed shall be replaced with the size and species of tree approved by the Department of Public Works.

Section 54. That Section 150.800.7, Landscaping & Screening Regulations, Recommended Tree Species and Quality of Plant Materials, of the Revised Code of General Ordinances, is amended as follows:

**150.800.7 Quality of Plant Materials and Prohibited Tree Species**

- (A) Evergreen trees should only be used for screening purposes and shall not be permitted in any public street right-of-way. Evergreen trees shall only be planted in planting areas with sufficient space to permit the trees to grow to maturity.
- (B) All plant materials shall be equal to or better than the requirements of the American Standard for Nursery Stock, American Association of Nurserymen (AAN Standards). All plants shall be typical of their species and variety, shall have a normal habit of growth, and shall be first quality, sound, vigorous, well-branched and with healthy, well-

furnished root systems. They shall be free of disease, insect pests and mechanical injuries.

- (C) Non-ornamental fruit bearing trees shall not be planted as street trees.
- (D) Schedule 150.800.7 – Prohibited Tree Species

The trees in Schedule 150.800.7 are prohibited. The Director of Public Works may prohibit tree species in addition to those listed in Section 150.800.7.

<b>Schedule 150.800.7 Prohibited Tree Species*</b>	
<b>BOTANICAL NAME</b>	<b>COMMON NAME</b>
Acer saccharinum	Silver maple
Ailanthus altissima	Tree-of-heaven
Elaeagnus angustifolia	Russian-olive
Fraxinus spp.	Ash (All varieties)
Lonicera maackii	Bush honeysuckle
Morus spp.	Mulberry (All varieties)
Pyrus calleryana	Flowering pear (All varieties)
Populus spp.	Poplar (Excluding Tulip poplar)
Salix babylonica	Weeping willow (All varieties)
Ulmus pumila	Siberian elm
* The Director of Public Works may prohibit tree species in addition to those listed in this Schedule.	

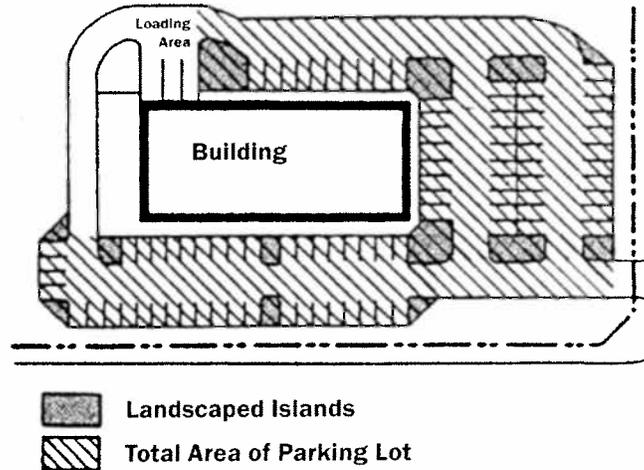
Section 55. That Section 150.800.8(D)(1)(a), Landscaping & Screening Regulations, Screening, Screening, of the Revised Code of General Ordinances, is amended as follows:

- (1) Screening Materials. Screening design and development shall be compatible with the existing and proposed land use and development character of the surrounding land and structures. Screening shall consist of one or more of the following:
  - (a) A dense vegetative planting incorporating trees and/or shrubs of a variety which shall be equally effective in winter and summer. Trees and/or shrubs shall be adequately spaced to form a solid, continuous visual screen within three (3) years after the initial installation. Specific exceptions to this requirement may be granted as detailed in sub-section 150.800.8(C), Modifications to Screening Requirements.

Section 56. That Section 150.800.9(A), Landscaping & Screening Regulations, Screening and Landscaping of Parking Lots, Landscaping on the Interior of Parking Lots, of the Revised Code of General Ordinances, is amended as follows:

- (A) Landscaping on the Interior of Parking Lots. With the exception of motor vehicle sales lots and areas used for the outdoor storage of vehicles, interior landscaping of parking lots shall be provided in accordance with the following requirements:
- (1) For any parking area designed to accommodate twenty-five (25) or more vehicles, a minimum of 5 percent (5%) of the parking lot shall be planted as landscaped island areas.
    - (a) Landscaped islands shall be developed and distributed throughout the parking lot to:
      - (i) Define major circulation aisles and driving lanes; and
      - (ii) Provide visual and climatic relief from broad expanses of pavement.
    - (b) Each island shall be a minimum of nine (9) feet in any horizontal dimension;
    - (c) Within the landscaped islands, one (1) shade tree shall be provided for every ten (10) parking spaces. Each tree, at the time of installation, shall have a minimum caliper of 2.5 inches and a clear trunk height of at least six (6) feet.
    - (d) Shrubs or low, spreading plant materials may also be planted within required landscaped islands in such a way that there is no impairment to the visibility of motorists or pedestrians.
    - (e) Landscaped areas adjacent to the perimeter of the parking area shall not be counted as interior parking lot landscaped areas.
  - (2) For the purpose of this Section, the area of a parking lot shall be the total vehicular surface area within the perimeter of the parking lot, including the landscaped islands, parking spaces and all circulation aisles except those with no parking spaces or landscaped islands located on either side. See Figure 1, Parking Lot Interior Calculation.

Figure 1. Parking Lot Interior Calculation



Section 57. That Section 150.900.2, Sign Regulations, Definitions, Definitions (DD) and (EE) of the Revised Code of General Ordinances are amended as follows, and Definition (HH), of the Revised Code of General Ordinances, is enacted as follows:

- (DD) Sign, Temporary means any sign that is designed to be used only temporarily and is not intended to be permanently attached to a building, structure, or permanently installed in the ground. Temporary signs may be displayed as window signs. A wallscape shall not be considered a temporary sign.
- (EE) Sign, Wall means a building sign that is painted on, or attached to, a building wall, with the exposed sign face in a plane parallel to the plane of the wall, that does not extend more than twelve (12) inches there from, and that does not project above the roofline or beyond the corner of the building. A wall sign shall not be considered a wallscape.
- (HH) Wallscape means a message and/or graphic that is printed on vinyl or similar material and is applied to the wall surface of a building for no more than 180 days. A wallscape may include on-premise or off-premise advertising messages. A wallscape shall not be considered a temporary sign, a wall sign, or a building sign.

Section 58. That Section 150.900.6, Sign Regulations, Signs in Downtown Districts, of the Revised Code of General Ordinances, is amended as follows:

**150.900.6 Signs and Wallscapes in Downtown Districts**

- (A) Schedule 150.900.6 of Signs and Wallscapes in Downtown Districts. All signs and wallscapes in downtown districts shall conform to the

maximum area, height and quantity regulations set forth in Schedule 150.900.6.

<b>Schedule 150.900.6</b>	
<b>Signs and Wallsapes in Downtown Districts</b>	
<b>(1) Building Signs</b>	
(a) Building Sign	1.5 sf <sup>1</sup>
(b) Projecting Sign	6.0 sf <sup>2</sup>
(c) Window Sign	20% of window area
<b>(2) Freestanding Signs</b>	
(a) Freestanding Sign	
(i) Maximum Area	25.0 sf
(ii) Maximum Height	6.0 ft.
(iii) Maximum Quantity	1
(b) Pedestrian Sign <sup>3</sup>	
(i) Maximum Area	12 sf
(ii) Maximum Height	4.0 ft.
(iii) Maximum Quantity	1 per building unit
(c) Entrance or Exit Sign	
(i) Maximum Area	6.0 sf
(ii) Maximum Height	4.0 ft.
(iii) Maximum Quantity	1 per curb cut
<b>(3) Wallsapes</b>	Only permitted in CBD; No maximum area <sup>4</sup>
<sup>1</sup> per lineal foot of the principal building's primary frontage	
<sup>2</sup> See sub-section (C) below	
<sup>3</sup> See sub-section 150.900.13 (C), Pedestrian Signs	
<sup>4</sup> See sub-section 150.900.13 (E), Wallsapes	

(B) Additional Building Signs for Multiple Story Buildings in Downtown Districts. In addition to the building signs permitted in Schedule 150.900.6, one (1) additional sign is permitted on any one (1) of the building's primary or secondary frontages according to the following.

- (1) For a building with two (2) floors, the additional permitted sign area is forty (40) square feet.
- (2) This additional sign area may be increased by ten (10) square feet for each additional floor in the building.
- (3) The additional sign area permitted by this Section shall be placed above the first floor of the building or its related parking structure.

(C) Projecting Signs. Each commercial use is permitted one (1) projecting sign in addition to the maximum building signage to which the use is otherwise permitted. In addition to the maximum area set forth in Schedule 150.900.6, projecting signs shall further conform to the following regulations:

- (1) A space of not less than six (6) inches shall be preserved between the wall and the nearest edge of the sign face.

- (2) A projecting sign may be permitted to extend over the public right-of-way provided the outer most edge of such sign is a minimum of two (2) feet from the back of the curb or the street edge, whichever is applicable.
- (3) Projecting signs shall have a maximum height of twenty (20) feet and a minimum clearance of ten (10) feet from the ground to the bottom of the sign, except when the projecting sign is located above a landscaped area or other area that does not permit pedestrian traffic beneath the sign. Projecting signs that project over an alley shall have a minimum clearance of fourteen (14) feet from the ground to the bottom of the sign.
- (4) Illumination. Projecting signs shall be illuminated only in compliance with sub-section 150.900.13(B), Illumination of Permanent and Temporary Signs.

Section 59. That Section 150.900.9.5, Sign Regulations, Signs in the Well Head Operation (WO) District, of the Revised Code of General Ordinances, is enacted as follows:

#### **150.900.9.5 Signs in the Well Head Operation (WO) District**

All signs in the Well Head Operation (WO) District shall comply with the regulations for the Eclectic (ENC and EGC) Commercial Districts contained in Section 150.900.7 as well as the additional regulations of Section 150.900.

Section 60. That Section 150.900.13(E), Sign Regulations, Supplemental Sign Standards; of the Revised Code of General Ordinances, is enacted as follows:

- (E) Wallscape. Where wallscape are permitted, the following regulations apply:
  - (1) A wallscape shall not obscure or shield from public view windows or architecturally significant features of any building.
  - (2) A wallscape shall not have proportions that are similar to traditional billboards, unless the Zoning Administrator determines that such proportions are necessary to complement the building and enhance existing architecture.  
  
Acceptable proportions for a wallscape are a length equal to or lesser than 1.5 times the height, or a length equal to or greater than four times the height.
  - (3) A wallscape shall not cover more than twenty five (25) percent of the primary building frontage, unless the Zoning Administrator

determines that allowing more than twenty five (25) percent coverage will not have a substantial negative impact on the design and visual impact of the primary building frontage.

- (4) A wallscape shall not be allowed to fall into a state of disrepair or deterioration.
- (5) A wallscape shall be removed within 180 days of installation, after which the same wallscape shall not be installed at the same location for 90 additional days.

Section 61. That Section 150.900.18(B), Sign Regulations, Regulations for Non-Conforming Signs, Alteration and Removal of Non-Conforming Signs, of the Revised Code of General Ordinances, is amended as follows:

(B) Alteration and Removal of Non-Conforming Signs.

- (1) Non-conforming signs shall be removed and any subsequent modification or replacement, excluding maintenance pursuant to sub-section 150.900.15(D), shall conform to all requirements of this Section:
  - (a) When more than fifty (50) percent of the physical replacement value of the sign has been destroyed or taken down, determination of said physical replacement value shall not include consideration of such factors as the geographic location of the sign or its non-conforming status.
  - (b) When the use, to which the non-conforming sign is accessory, is abandoned for ninety (90) consecutive days, by the owner shall remove the sign from the premises within ten (10) days after the use is deemed abandoned.
- (2) A non-conforming sign shall not be altered or modified other than to comply with this Section except that:
  - (a) When the existing use has new ownership which results in a change in the name of the use or business on the property or when the space is reoccupied by a similar use and the new occupant requires no external building or site renovation, then the message of a non-conforming sign may be changed.
  - (b) An existing sign pursuant to this sub-section may be changed by replacing a sign panel or by repainting a sign face only. Such alterations shall not require changes to

the structure, framing or erection or relocation of the sign unless such changes conform to this Section.

- (3) Subject to the provisions of this Section, non-conforming signs may be repaired so long as the cumulative cost of such work does not exceed within any twelve (12)-month period fifty (50) percent of the sign's physical replacement value. When determining said physical replacement value, factors such as the geographic location of the sign or its non-conforming status shall not be considered.

Section 62. That Section 150.925.5, Off-Premise Sign Regulations, Non-Conforming Off-Premise Signs, of the Revised Code of General Ordinances, is amended as follows:

Any off-premise sign not installed, constructed, altered, repaired, replaced, located or relocated in accordance with 150.925.4 (A) is a non-conforming off-premise sign and shall be repaired, relocated or replaced only in accordance with 150.925.6 through 150.925.14 or removed in accordance with 150.900.18.

The conversion of an off-premise sign with any non-conforming characteristic to an electronic off-premise sign shall be prohibited regardless of the zoning district in which it is located.

Section 63. That existing Sections 150.110.4(H); 150.110.5(D)(1); 150.115.4(B); 150.120.7; 150.120.11; 150.130.3; 150.140.4(A) and (B); 150.200.2, Definitions (38), (39), (40), (41) (41A), (92), (125), (137A) and (163); 150.300.1(D); Schedule 150.305.2; Section 150.305.5(F); Schedule 150.320.2; Section 150.320.8(B)(4)(b)(i); Schedules 150.320.10 and 150.325.2; Section 150.325.8(B)(4)(b)(i); Schedule 150.330.2; Sections 150.330.5(B) and (C); 150.330.6(D)(4)(b)(i); Schedule 150.335.2; Sections 150.335.5(A); 150.335.6(A); Schedule 150.340.2; Sections 150.345.1(E); 150.345.2; 150.345.3; 150.345.4(C); 150.345.5(C); 150.345.7(A)(4); 150.345.14(B)(4); 150.345.20(B)(1); 150.345.21; 150.365.1(D); Schedule 150.365.2; Sections 150.375 (Sections 150.375.1 through 150.375.6); 150.420.1(A)(1), (2) and (3); 150.420.2(G); 150.445(C); 150.558; 150.565.15; 150.565.17(A); 150.565.22(A); 150.565.37(G); 150.565.42(E); 150.565.53(A)(4); 150.565.80.5(A) and (E); 150.565.80 (A) and (E); 150.600.7(J); 150.700.3; Schedule 150.700.7; Sections 150.800.1; 150.800.5(A); 150.800.6(B); 150.800.7; 150.800.8(D)(1)(a); 150.800.9(A); 150.900.2; 150.900.6; 150.900.18(B); and 150.925.5 of the Revised Code of General Ordinances, as previously enacted, are repealed.

Section 64. That for the reasons stated in the preamble hereof, the Commission declares this ordinance to be an emergency measure that shall be effective upon passage.

Passed by the Commission... MAY 4 .....2016

Signed by the Mayor... MAY 4 .....2016

Norm Whaley  
Mayor of the City of Dayton, Ohio

Attest:

Rashella Lavender  
Clerk of the Commission

Approved as to form:

Byron R. Donaldson Jr  
City Attorney