

# CITY OF DAYTON

## **AGENDA**

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- (1) PLN2024-00400
  - Case Information
  - Proposed Text Amendments
  - Next Steps
  
- (2) PLN2024-00369
  - Case Information
  - Proposed Text Amendment
  - Next Steps

# **LUNCH & LEARN**

## **Zoning Code Text Amendments**

December 5, 2024



<b>Case type:</b>	Plan Board December 10, 2024
<b>Final approval required:</b>	City Commission First quarter 2025

## Request Explanations

- 2 staff-proposed Zoning Code Text Amendments (PLN2024-00400), one regarding group homes and the other regarding fees, penalties, and enforcement
- An economic development proposal brought forward by SAICA, a paper manufacturer, that would require a Zoning Code Text Amendment to move forward (PLN2024-00369)

**Description:** Creates a definition of “family” and “household” that factor in current case law in Ohio. Creates a new system of regulation pertaining to recovery homes, foster care group homes, and other supportive care residences.

**Rationale:** Substantive changes –

- A definition of “family” and “household” that are interchangeable, and permit the cohabitation of up to four unrelated adults in a dwelling unit. This provides a basis of limitation to occupation that still includes the concept and function of a family unit within the code as a basis for comparison or emulation, though provides for a standardized limit for adult occupancy of dwelling units that does not rely on examining biological or marital relationships.
- Creates a definition and use category for “recovery home community residence,” previously unlisted in the code. Those in recovery are considered a protected class under Fair Housing, though are in need of local standards for location of facilities to improve the planning and quality of dwelling units available. Requires a 500 foot spacing for recovery homes exceeding 4 occupants, with no corresponding requirement for those recovery homes falling under the standard occupancy limit of 4 unrelated adults, in line with Fair Housing requirements.
- Removes “adult care” as a category, as well as “supportive living home” in favor of a combined use category covering both concepts “supportive care community residence.” The previous edition of the code defined “supportive care home” but did not list it in any use table, and it appears that these two use categories are functionally the same with respect to zoning, one pertaining to aging adults, the other to the disabled. Sometimes this means the developmentally disabled, though there seems to be little needed in terms of zoning regulation to distinguish. The main intent of the draft is to ensure minimum standards of living, ensure some measure of stability for neighborhoods with respect to the siting of larger-scale homes exceeding the standard occupancy limit for adults with a 500 foot spacing for these larger homes, with no corresponding requirement for those homes under the limit, in line with Fair Housing requirements.
- Removes “residential facility” and creates a definition for “foster care community residence” along with supplemental standards for their siting. Unlike the above two community residence categories” all foster care community residences are subject to a 1,000 foot separation requirement, additional requirements for the provision of private bedrooms for older children and young adults.
- All three categories of community residences listed above are also subject to a requirement to avoid siting on the same block face or within 100 feet of a property that is vacant/boarded or in the City’s structural nuisance program. This standard is meant to provide additional fire safety, prevent exposure to crime, and promote the location of community residences to neighborhoods that can offer the social and physical benefits of neighborhood stability to their future residents. Because future residents of community residences often have little choice or no choice in their housing, depending on circumstances, and State law is written with a much broader view with various economic and built housing environments in mind, local standards are an appropriate supplement that can improve outcomes for both neighborhoods and the potentially vulnerable residents living in community residence properties.

## 150.200.2 Definitions.

**Residential facility.** A facility that provides room, board, personal care, supervision, habilitation services and mental health services to developmentally disabled persons and/or foster children, as defined in this Zoning Code, in a family setting. These facilities shall be licensed by a state or federal agency. Facilities providing the services and functions of Emergency Housing, Protective Care Facilities, or Transitional Housing as defined in this code shall not be considered Residential Facilities. There are three size categories of residential facilities:

- (1) A residential facility that provides the services listed above for five (5) or fewer developmentally disabled persons and/or foster children.
- (2) A residential facility that provides the services listed above for six (6) to eight (8) developmentally disabled persons and/or foster children.
- (3) A residential facility that provides the services listed above for nine (9) to sixteen (16) developmentally disabled persons and/or foster children.

**Community residence, foster care.** A residential facility that provides room, board, personal care and supervision to foster children, as defined in this Zoning Code, also known as “foster care group homes.” Foster care community residences are a unique residential land use, in that, though they seek to re-create a family-like home setting for resident children, they often do not have an adult who resides at the residence, and instead may operate on a business-like model of taking shifts to provide supervision. Facilities providing the services and functions of Emergency Housing, Protective Care Facilities, or Transitional Housing as defined in this code shall not be considered foster care community residences. This term also does not include family arrangements providing legal guardianship or kinship care to foster children.

**Community residence, recovery home.** A residential dwelling for individuals recovering from alcohol or drug addiction that provides an alcohol and drug-free living environment, peer support, and other recovery assistance, as defined by the Ohio Revised Code Section 5119.01(A)(17). Within the home, residents function as a single housekeeping unit in a family-like setting. Facilities providing the services and functions of Emergency Housing, Protective Care Facilities, or Transitional Housing as defined in this code shall not be considered recovery home community residences.

**Community residence, supportive care.** A residential dwelling for developmentally disabled, otherwise disabled, or aging adults where care is provided that includes assistance in daily living and habilitative and rehabilitative services, in a family-like setting. Facilities providing the services and functions of Emergency Housing, Protective Care Facilities, or Transitional Housing as defined in this code shall not be considered supportive care community residences.

**Adult care facility.** A facility providing personal care services to adults (typically elderly). Such services may include assistance in daily living activities and self-administration of medicine, and preparation of special diets. These facilities shall be licensed by a state or federal agency. Facilities providing the services and functions of Emergency Housing, Protective Care Facilities, or Transitional Housing as defined in this code shall not be considered Adult Care Facilities. There are two categories of adult care facilities: (a) (b) An adult care facility that provides accommodations for 3 to 5 adults; and, An adult care facility that provides accommodations for 6 to 16 adults.

**Family.** Family means an individual or two or more persons, each related to the other by blood, marriage, or adoption, or foster children as defined in Section 150.200.2 and not more than two additional persons not related as set forth above, all living together as a single housekeeping unit and using common kitchen facilities.

A family is a bonded social unit related by blood, marriage, adoption, guardianship, or other duly and legally authorized custodial relationship. A family traditionally consists of one or more parents and their children, or caregiver and their related dependents, or adults in a longstanding domestic relationship. Families periodically may move together from one dwelling unit to another and are not primarily related through use of a specific dwelling unit or a commercial enterprise. A family does not include any society; club; boarding or lodging house; fraternity; sorority; or group of individuals whose association is seasonal or similar in nature to a resort, motel, hotel, boarding or lodging house, nor that is institutional in nature. “Family” and “household” may be used interchangeably in this code for purposes of occupancy standards.

**Household.** Any adult person living alone, or any of the following groups emulating a family and living together as a single housekeeping unit: (1) a family and no more than one unrelated individual who lives in the dwelling and provides care or assistance; (2) two unrelated adults and their children or dependents related to either of them; or (3) up to four unrelated adults.

**Occupancy, maximum.** The maximum number of occupants permitted within a designated space, typically a dwelling unit or unit of commercial space.

**Occupant.** A person who, on a regular basis, spends nights at a residence. A person is considered an occupant regardless of whether they spend the majority of their nights at a residence, if the times they do stay overnight are regular and recurrent. In addition, a person shall be considered an occupant if their clothes or other daily living supplies are maintained at the residence. An occupant may also refer to a business operating regularly from a commercial unit.

**Single housekeeping unit.** A long-term living arrangement of thirty (30) days or more in a single dwelling unit with common use and access to all living and eating areas, bathrooms, and food preparation and serving areas within the dwelling unit.

**Supported living home.** A dwelling housing not more than five persons with developmental, intellectual, physical, and/or mental, disabilities and/or illnesses who may or may not be related and who share living, dining, cooking, and common space. Within the dwelling, the individuals shall function as a single housekeeping unit in a family-like setting. Bedrooms shall not be shared; each individual shall have his or her own bedroom. A license to operate the home shall not be required.

Schedule 150.305.2 Permitted Uses in Single-Family Residential Districts					
(1) Group Residential					
(1) Adult care facility for 3-5 persons	P <sup>17</sup>	P <sup>17</sup>	P <sup>17</sup>	P <sup>17</sup>	P <sup>17</sup>
(1) Residential facility for 5 or fewer persons	P <sup>17</sup>	P <sup>17</sup>	P <sup>17</sup>	P <sup>17</sup>	P <sup>17</sup>
(1) Residential facility for 6-8 persons	P <sup>17</sup>	P <sup>17</sup>	P <sup>17</sup>	P <sup>17</sup>	P <sup>17</sup>
<sup>17</sup> Only one group residential use shall be permitted per zoning lot					

Schedule 150.310.2 PERMITTED USES IN MULTI-FAMILY RESIDENTIAL DISTRICTS			
	SMF	EMF	MMF
	Suburban MF Residential	Eclectic MF Residential	Mature MF Residential
(1) Residential			
(1) Group Residential			
(1) Adult care facility for 3-5 persons	P <sup>13</sup>	P <sup>13</sup>	P <sup>13</sup>
(1) Adult care facility for 6-16 persons	P <sup>*13</sup>	P <sup>*13</sup>	P <sup>*13</sup>
(1) Residential facility for 5 or fewer persons	P <sup>13</sup>	P <sup>13</sup>	P <sup>13</sup>
(1) Residential facility for 6-8 persons	P <sup>13</sup>	P <sup>13</sup>	P <sup>13</sup>
(1) Residential facility for 9-16 persons	P <sup>*13</sup>	P <sup>*13</sup>	P <sup>*13</sup>

Schedule 150.305.2 PERMITTED USES IN SINGLE-FAMILY RESIDENTIAL DISTRICTS					
	SR-1	SR-2	ER-3	ER-4	MR-5
	Suburban SF Residential I	Suburban SF Residential I	Eclectic SF Residential	Eclectic SF Residential	Mature SF Residential
<b>Group Residential</b>					
a. Community residence, foster care	P*	P*	P*	P*	P*
b. Community residence, recovery home	P*	P*	P*	P*	P*
c. Community residence, supportive care	P*	P*	P*	P*	P*

Schedule 150.310.2 PERMITTED USES IN MULTI-FAMILY RESIDENTIAL DISTRICTS			
	SMF	EMF	MMF
	Suburban MF Residential	Eclectic MF Residential	Mature MF Residential
(1) Residential			
(1) Group Residential			
(1) Community residence, foster care	P*	P*	P*
(1) Community residence, recovery home	P*	P*	P*
(1) Community residence, supportive care	P*	P*	P*

Schedule 150.330.2 PERMITTED USES IN MIXED-USE AND TRANSITIONAL DISTRICTS		
	T	MX
	Transitional District	Mixed-Use Hub
<b>Residential</b>		
<b>Group Residential</b>		
a. Adult care facility for 3-5 persons	P	P
b. Adult care facility for 6-16 persons	C	C
e. 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

Schedule 150.330.2 PERMITTED USES IN MIXED-USE AND TRANSITIONAL DISTRICTS		
	T	MX
	Transitional District	Mixed-Use Hub
<b>Residential</b>		
<b>Group Residential</b>		
a. Community residence, foster care	P*	C
b. Community residence, recovery home	P*	C
c. Community residence, supportive care	P*	C

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>		
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>
Single-family dwelling, attached	P <sup>1, 2, 6</sup>	P* <sup>2, 8</sup>
a. 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>
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>
Residential facility for 6-8 persons	P <sup>2</sup>	P <sup>2</sup>
Residential facility for 9-16 persons	P <sup>1, 2</sup>	C <sup>2</sup>

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	<b>P*</b> <sup>1, 2</sup>	<b>P*</b> <sup>2, 8</sup>
c. Single-family dwelling, attached	P <sup>1, 2, 6</sup>	<b>P*</b> <sup>2, 8</sup>
a. Two-family dwelling	P <sup>1, 2, 6</sup>	<b>P*</b> <sup>2, 8</sup>
e. Multi-family dwelling	P <sup>1, 2, 7</sup>	<b>P*</b> <sup>2, 8</sup>
f. Family day care home for 1-6 children (type B)	P <sup>2</sup>	P <sup>2</sup>
Family day care home for 7-12 children (type A)	P <sup>2</sup>	C <sup>2</sup>
<b>2. Group Residential</b>		
Community residence, foster care	<b>C</b>	<b>C</b>
b. Community residence, recovery home	<b>P*</b>	<b>P*</b>
b. Community residence, supportive care	<b>P*</b>	<b>P*</b>
c. Dormitory, fraternity, sorority	P <sup>1, 2</sup>	<b>P*</b> <sup>2, 8</sup>

**Section 150.400  
Supplemental District Regulations**

**Maximum Occupancy**

Section 93: Housing, of the City of Dayton Code of Ordinances, provides for the maximum occupancy of residential structures. The Ohio Building Code provides for the maximum occupancy of commercial and other structures. Standards within this Zoning Code may provide additional standards for maximum occupancy based on use classification, and where more restrictive, these standards shall apply. Subdividing a dwelling unit into a single-room occupancy arrangement shall not increase the maximum occupancy permitted for the dwelling unit as a whole.

**Section 150.500  
Conditional Use and Specific Use Regulations**

**Community Residence, Foster Care**

Intent. It is the express intent of these regulations to ensure that children and young adults in foster care are provided with safe, clean, and reasonably spacious living accommodations. Foster care community residences are welcome housing options within the community, providing young people facing crisis or instability the opportunity to habilitate and gain necessary life skills. Foster care community residences must be sited appropriately to gain the advantages of their location within stable neighborhoods. The planning for siting and location is often conducted by an operator, who then opens the home to children or young adults in crisis. This section provides reasonable and pragmatic guardrails to prevent unsafe or substandard outcomes for future residents of these community residences.

Reasonable accommodation. The Zoning Administrator is empowered to provide reasonable accommodation for protected classes under the Fair Housing Act.

The specific regulations for a foster care community residence shall be as follows:

All foster care community residences shall comply with the terms of any licensing required by the State of Ohio. The Zoning Administrator shall verify details of the home operator's license including contact information for related state and county agencies issuing or involved with the home's license, any required operations plan, and any required community engagement plan, in addition to those details required to determine compliance with the standards of this Zoning Code.

If the applicant is not the owner of the property in which the community residence is located, then the applicant shall provide a notarized letter from the property owner approving the property for use as a community residence.

To ensure the availability of City of Dayton services, as well as the services provided by other agencies, and to prevent the excessive concentration of foster care community residences, these residences shall not exceed the maximum number allowed within the Land Use Areas of the city. In the North Central, West, Southeast, and Northeast Land Use Areas, a maximum of 12 foster care community residences shall be permitted. In the Downtown Land Use Area, a maximum of 6 foster care community residences shall be permitted. In addition, foster care community residence shall not be located within 1,000 feet of another foster care community residence, as measured from nearest lot line to nearest lot line. The Zoning Administrator may approve closer siting where two such recovery homes are separated by natural or man-made barriers like steep terrain, waterways, or arterial roadways which mark a more significant physical separation than distance.

To prevent danger of fire spread, to provide opportunity for neighborhood recovery and stability, and to encourage the siting of foster care community residences where they can provide high-quality living environments for their residents, no foster care community residence shall be sited within the same block face, or adjacent to a vacant home boarded or declared a public nuisance by the City. This standard shall not apply retroactively should a home within this distance fall into this state during the operation of the community residence. The Zoning Administrator may provide exceptions to this standard based on the specific circumstances of the home declared a nuisance, or based on other factors seen as relevant, in pursuit of meeting the intent of this standard.

The Zoning Administrator shall perform an interior and exterior inspection of a proposed community residence prior to the issuance of a zoning certificate. The purpose of this inspection is to ensure compliance with the property maintenance and occupancy standards of Chapter 93: Housing, Chapter 99: Nonresidential Building Maintenance, and any other applicable property maintenance standards adopted.

Foster care community residences shall host no more residents than permitted by the home's bedroom and total dimensions, and shall provide access to private storage spaces as specified by Section 93: Housing. In addition to these standards, the following occupancy standards shall apply:

- 1) Residents aged 12 or younger may share a bedroom.
- 2) Residents aged 13 or older shall each be provided their own bedroom.
- 3) The Zoning Administrator shall grant necessary exceptions where the limitation of bedrooms may cause the separation of individuals related by blood, adoption, marriage, or other similar familial relationships. The applicant shall provide a written statement by the licensing agency establishing this relationship.

A foster care community residence shall host no more than five (5) occupants, exclusive of a guardian or staff on site.

No more than one foster care community residence shall be located on a zoning lot.

Foster care community residences shall operate only from a single-family home, or may be located in a two-family home where the community residence operator or a staff member resides in the second dwelling unit as their primary residence. This arrangement within a two-family dwelling must include ownership of the structure by the operator or entity who runs the community residence.

Where a nonconforming community residence has been voluntarily discontinued in accordance with 150.140, the structure's use shall be thereafter be considered its corresponding residential use, and any subsequent proposal for a residential facility shall adhere to the standards of this Zoning Code.

Nothing within these provisions shall prevent the placement of children or developmentally disabled adults under guardianship of a foster-parent, adoptive parent, kinship caregiver, or parent who is biologically related.

## **Community Residence, Recovery Home**

**Intent.** It is the express intent of these regulations to ensure that residents in recovery are provided with safe, clean, and reasonably spacious living accommodations. Recovery homes are welcome housing options within the community, though must be sited appropriately to gain the advantages of their location within stable neighborhoods. The planning for siting and location is often conducted by an operator, who then opens the home to residents in recovery. This section provides reasonable and pragmatic guardrails to prevent unsafe or substandard outcomes for future residents of these homes.

**Reasonable accommodation.** The Zoning Administrator is empowered to provide reasonable accommodation for protected classes under the Fair Housing Act.

The specific regulations for a recovery home shall be as follows:

All recovery homes shall comply with the terms of any licensing required by the State of Ohio. The Zoning Administrator shall verify details of the home operator's license including contact information for related state and county agencies issuing or involved with the home's license, any required operations plan, and any required community engagement plan, in addition to those details required to determine compliance with the standards of this Zoning Code.

If the applicant is not the owner of the property in which the community residence is located, then the applicant shall provide a notarized letter from the property owner approving the property for use as a community residence. Once issued, zoning certificates are nontransferable.

The Zoning Administrator shall perform an interior and exterior inspection of a proposed community residence prior to the issuance of a zoning certificate. The purpose of this inspection is to ensure compliance with the property maintenance and occupancy standards of Chapter 93: Housing, Chapter 99: Nonresidential Building Maintenance, and any other applicable property maintenance standards adopted.

Recovery homes shall host no more residents than permitted by the home's bedroom dimensions and total dimensions, and provide access to private storage spaces as specified by Section 93: Housing.

Recovery home operators shall permit a resident-driven length of stay, expressly permitting long-term stay for its residents.

Occupancy and siting for recovery home community residences are as follows:

- 1) A recovery home shall host no more than (4) occupants in a dwelling unit. A minimum of one (1) bedroom per two occupants shall be provided.
- 2) The Zoning Administrator may provide an exception to this limit to permit up to eight (8) occupants where all of the following circumstances exist:
  - a. The dwelling unit is a single-family detached structure;
  - b. The dwelling has a minimum setback of 20 feet from neighboring lots.
  - c. The dwelling unit is 2,600 SF or larger, and can provide an additional bedroom for each resident exceeding four (4). For clarity, a minimum of two (2) bedrooms shall be supplied for the first four occupants, and an additional bedroom supplied for each additional occupant;
  - d. The dwelling unit contains at least two bathrooms supplying a shower or bath;
  - e. The lot is 7,000 square feet or larger, and contains adequate parking according to listed parking quotas of this code or a transportation management plan supplied to the Zoning Administrator; and
  - f. The exterior of the dwelling provides a porch, patio, gazebo or other outdoor similar outdoor recreation space.
  - g. Where a recovery home hosts five (5) or more occupants, it shall not be sited within 1,000 feet of any other recovery home hosting five (5) or more occupants, measured from nearest lot line to nearest lot line. The Zoning Administrator may approve closer siting where two such recovery homes are separated by natural or man-made barriers like steep terrain, waterways, or arterial roadways which mark a more significant physical separation than distance.

Where a nonconforming community residence has been voluntarily discontinued in accordance with 150.140, the structure's use shall be thereafter be considered its corresponding residential use, and any subsequent proposal for a community residence shall adhere to the standards of this Zoning Code.

## Community Residence, Supportive Care

Intent. It is the express intent of these regulations to ensure that residents in a supportive care community residence are provided with safe, clean, and reasonably spacious living accommodations. Supportive care community residences for either the disabled or for aging adults are welcome housing options within the community, though must be sited appropriately to gain the advantages of their location within stable neighborhoods. The planning for siting and location is often conducted by an operator, who then opens the home to residents. This section provides reasonable and pragmatic guardrails to prevent unsafe or substandard outcomes for future residents of these homes.

Reasonable accommodation. The Zoning Administrator is empowered to provide reasonable accommodation for protected classes under the Fair Housing Act.

The specific regulations for a supportive care community residence shall be as follows:

All community residences shall comply with the terms of any licensing required by the State of Ohio. The Zoning Administrator shall verify details of the home operator's license including contact information for related state and county agencies issuing or involved with the home's license, any required operations plan, and any required community engagement plan, in addition to those details required to determine compliance with the standards of this Zoning Code.

If the applicant is not the owner of the property in which the community residence is located, then the applicant shall provide a notarized letter from the property owner approving the property for use as a community residence. Once issued, zoning certificates are nontransferable.

The Zoning Administrator shall perform an interior and exterior inspection of a proposed community residence prior to the issuance of a zoning certificate. The purpose of this inspection is to ensure compliance with the property maintenance and occupancy standards of Chapter 93: Housing, Chapter 99: Nonresidential Building Maintenance, and any other applicable property maintenance standards adopted.

Community residences shall host no more residents than permitted by the home's bedroom dimensions and total dimensions, and provide access to private storage spaces as specified by Section 93: Housing.

Supportive care community residence operators shall permit a resident-driven length of stay, expressly permitting long-term stay for its residents.

Occupancy and siting for supportive care community residences are as follows:

- 1) A supportive care community residence shall host no more than (4) occupants in a dwelling unit. A minimum of one (1) bedroom per two occupants shall be provided.
- 2) The Zoning Administrator may provide an exception to this limit to permit up to eight (8) occupants where all of the following circumstances exist:
  - a. The dwelling unit is a single-family detached structure;
  - b. The dwelling has a minimum setback of 20 feet from neighboring lots.
  - c. The dwelling unit is 2,600 s or larger, and can provide an additional bedroom for each resident exceeding four (4). For clarity, a minimum of two (2) bedrooms shall be supplied for the first four occupants, and an additional bedroom supplied for each additional occupant;
  - d. The dwelling unit contains at least two bathrooms supplying a shower or bath;
  - e. The lot is 7,000 square feet or larger, and contains adequate parking according to listed parking quotas of this code or a transportation management plan supplied to the Zoning Administrator; and
  - f. The exterior of the dwelling provides a porch, patio, gazebo or other outdoor similar outdoor recreation space.
  - g. Where a supportive care community residence hosts five (5) or more occupants, it shall not be sited within 1,000 feet of any other supportive care community residence hosting (5) or more occupants, measured from nearest lot line to nearest lot line. The Zoning Administrator may approve closer siting where two such community residences are separated by natural or man-made barriers like steep terrain, waterways, or arterial roadways which mark a more significant physical separation than distance.

Where a nonconforming community residence has been voluntarily discontinued in accordance with 150.140, the structure's use shall be thereafter be considered its corresponding residential use, and any subsequent proposal for a community residence shall adhere to the standards of this Zoning Code.

150. ~~Adult Care Facility for Six (6) to Sixteen (16) Persons~~

The specific regulations for adult care facilities for six (6) to sixteen (16) persons shall be as follows:

- (1) ~~All activities, programs and other events shall be directly related to the conditional use permit applied for and as it is granted, and any changes from the approved conditional use permit shall be reviewed and approved by the Board of Zoning Appeals according to the Procedures in this Section. All activities, programs and other events shall be adequately and properly supervised so as to prevent any hazard and to assure against any disturbance or nuisance to surrounding properties, residents, or to the community in general.~~
- (2) ~~The architectural design and site layout of the adult care facility and the height of any walls, screens, or fences connected with any said care facility shall be compatible with adjoining land uses and the residential character of the neighborhood.~~
- (3) ~~In Single family Zoning Districts, in order to maintain the single family residential character of the area in which the residential care facility is located, the applicant is required and shall agree that upon termination of this conditional use for any reason the applicant shall restore the premises to a condition in which it is marketable as a single family dwelling, unless ownership and/or possession of the premises is transferred to a person(s) who has obtained a similar conditional use permit for the premises.~~
- (4) ~~The applicant shall comply with the applicable parking regulations of the Zoning Code and shall make adequate provision for on-site parking of vehicles used by visitors and the home supervisors. The use of alternative pavements such as brick pavers and porous pavement is encouraged. Parking for visitors and employees shall be located behind the front building line. The Plan Board, the Board of Zoning Appeals, or the Zoning Administrator, whichever is applicable pursuant to the procedures in Section 150.115, may grant an exception to this requirement due to the shallow depth of the parcel, the location of mature trees, or other similar factors.— (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. 31574-17, passed 7-05-17)~~

52. ~~Residential Facility for Nine (9) to Sixteen (16) Persons~~

The specific regulations for a residential facility for nine (9) to sixteen (16) persons shall be as follows:

- R. ~~All activities, programs and other events shall be directly related to the conditional use permit so granted, and any changes from the approved conditional use permit shall be reviewed and approved by the Board of Zoning Appeals according to the provisions of this Section. All activities, programs and other events shall be adequately and properly supervised so as to prevent any hazard and to assure against any disturbance or nuisance to surrounding properties, residents or to the community in general.~~
- S. ~~The architectural design and site layout of a residential facility and the height of any walls, screens, or fences connected with any said residential facility shall be compatible with adjoining land uses and the residential character of the neighborhood.~~
- T. ~~If the residential facility is located in a single family zoning district, in order to maintain the single family residential character of the area in which the residential care facility is located, the applicant is required and shall agree that upon termination of this conditional use for any reason the applicant shall restore the exterior of the premises so that it has a single family residential character, unless ownership and/or possession of the premises is transferred to a person(s) who has obtained a similar conditional use certificate for the premises.~~
- U. ~~The applicant shall comply with the applicable parking regulations of the Zoning Code and shall make adequate provision for on-site parking of vehicles used by visitors and the home supervisors. The use of alternative pavements such as brick pavers is encouraged. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09; amend Ord. 31574-17, passed 7-05-17; amend Ord. 31738-19, passed 05-29-19)~~

**Description:** Re-configure the fees, penalties and enforcement section of the zoning code to adjust civil penalties upward, providing a better-fit means of enforcement that relies more on fines as a final outcome rather than criminal charges through misdemeanor ticketing. Because the current code version weaves criminal and civil procedure sections together, they are more difficult to understand. Simplify the enforcement section to be less cross-referential and more direct in its language.

**Rationale:** Civil enforcement provides a means to staff to turn up and down the intensity of an interaction according to the level of compliance obtained voluntarily. By contrast, a ticket for a minor misdemeanor may be issued currently, but these are not easily “dropped” the way legal order can be adjusted in terms of due dates. There are also some violations where a penalty that could involve incarceration seems too forceful. Enforcement involving a business may be more effectively solved under the threat of a fine rather than facing a more complicated investigation finding a person in charge to charge with a misdemeanor penalty. The civil penalties listed in the code are currently far too low to be effective, which seems to have caused a dependency on misdemeanor charges. Creating a better system for both paths of enforcement will be more useful for effecting good enforcement outcomes going forward.

In some cases, a minor misdemeanor ticket is still appropriate. In some cases, a first degree misdemeanor charge is more appropriate than a lower 3rd degree misdemeanor charge, as would be the case for a business that has occupied a site illegally and has refused cooperate with directives of administration to come into compliance or leave the site.

Last, enforcement fees have been proposed. Currently, if a property owner does not seek permits for their construction project or occupancy of a property, is noticed for their violation, and comes in for permits, staff does not impose civil penalties, considering the matter on a path toward resolution. Still, there is effort expended notifying and documenting offenses, and no incentive for property owners to comply voluntarily before being cited for an offense. Reasonable fees are proposed to cover some cost of staff time and produce an incentive (over time, as the fees become more known in the construction and business community), for property owners to inquire about permits prior to moving forward without them. These fees would be charged in the normal course of permitting and may be waived where an applicant has voluntarily disclosed the presence of some unpermitted structure or business.

Substantive changes –

- Added clarifying language about the Zoning Administrator’s ability to enforce Board conditions.
- Clarifying language on the Board of Zoning Appeals as the body that hears appeals for enforcement, while the PND Director hears appeals for the assessment of fines in the case of noncompliance with an order.
- Clarifying language on power to revoke a permit, and order a property vacated if being illegally occupied.
- Civil notices of violation – change to not need to send notices through certified mail. Criminal citations would continue to be sent certified.
- Previous civil penalty was \$50 daily max or \$500 max, unless in the Source Water Protection area, where fines are \$1,000 daily or \$50,000 max. Removed the distinction, the max for any civil offense will be \$1,000 daily or \$50,000 max. By policy, a schedule will be published, and most fines imposed would be far lower, particularly where offenses may be at a residential lot. The imposition of fines is rare, but the payment of \$500 as a maximum penalty is simply too low to be effective, particularly for commercial property offenses where repairs or compliance far exceeds the cost of a fine.
- Current section states it’s a minor misdemeanor for most offenses ticketed directly, which remains the same in this code (should criminal enforcement be pursued).
- Current section states it’s a 1st degree misdemeanor to violate a stop work order, but only a 3rd degree misdemeanor to fail to comply with a notice of violation. This seems misaligned, and this version states it’s a 1st degree on the first offense to fail to comply with a notice of violation. This is much more in line with the enforcement capabilities for surrounding/similar jurisdictions with respect to zoning.
- Adds a section that specifies that a historic property destroyed without permits must be restored as a remedy.

**Section 150.130  
Fees, Penalties and Enforcement**

§150.130.1	Violation of the Zoning Code	§150.130.6	Procedure for Notices of Violation
§150.130.2	Zoning Code Complaints	§150.130.7	Civil Penalties
§150.130.3	Powers of Enforcement	§150.130.8	Minor Misdemeanor Citation
§150.130.4	Stop Work Order Election of Remedies	§150.130.9	Misdemeanor Penalties
§150.130.5	Permit Revocation and Vacation of Premises	§150.130.10	Stop Work Order
	Notice of Violation		Minor Misdemeanor Citation Procedures
			Civil Penalties
			Fees

Schedule 150.130.8 Minor Misdemeanor Violations	
Section	Violation Summary
450.130.6	
150.135.1	Construction or use without a zoning certificate
150.135.6	Occupancy without a certificate of occupancy
150.305.5	Accessory use violation in the Single-family districts
150.310.7	Accessory use violation in the Multi-family districts
150.315.6	Accessory use violation in the Manufactured home districts
150.315.9	Performance standard violation in the Manufactured home districts
450.320.5	Outdoor display/storage violation in the Downtown districts
150.320.6	Performance standard violation in the Downtown districts
150.320.7	Accessory use violation in the Downtown districts
150.320.8	Accessory use violation in the Downtown districts
150.325.5	Outdoor display/storage violation in the Commercial districts
150.325.7	Accessory use violation in the Commercial districts
150.325.8	Accessory use violation in the Commercial districts
150.325.10	Performance standard violation in the Commercial districts
150.330.5	Accessory use violation in the Mixed use districts
150.330.6	Outdoor display violation in the Mixed use districts
150.330.10	Performance standard violation in the Mixed use districts
150.335.5	Accessory use violation in the Campus-institutional district
150.335.10	Outdoor display/storage violation in the Campus-institutional district
150.335.11	Performance standard violation in the Campus-institutional district
150.340.5	Outdoor storage violation in the Industrial districts
150.340.7	Accessory use violation in the Industrial districts
150.340.9	Performance standard violation in the Industrial districts
150.345.16	No Certificate of Appropriateness in a Historic District
150.410	Site visibility triangle violation
150.420.1	Bee keeping violation
150.420.1.5	Composting violation
150.420.2	Performance standard violation
150.420.3	Exterior lighting violation
150.430.2	Temporary use violation
450.565.12.5	
450.565.24.5	
450.900.4	
450.900.5	
450.900.8	
450.900.13	
450.900.14	
150.900.15	Sign code design violation
150.900.17	Prohibited sign violation
150.900.19	No zoning certificate for a sign

150.130.2 Zoning Code Complaints

Any person may submit a complaint to the Zoning Administrator, orally or in writing, alleging a violation of this Zoning Code. The complaint shall include the address or lot number parcel identification number of the property and fully state the factual basis for the complaint. (Ord. 30515-05, passed 12-28-05; amend Ord. 30594-06, passed 8-23-06)

150.130.3 Powers of 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, violations of lawful conditions placed on approvals by a reviewing Board, and/or violations of land use plans in urban renewal project areas;
  - (2) Issue notices, and orders, and complaints 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, in violation of the City of Dayton’s property maintenance codes, and in violation of lawful conditions placed on approvals by a reviewing Board, 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, lawful conditions placed on approvals by a reviewing Board, and/or land use plans in urban renewal project areas;
  - (4) Seek any remedy at law or equity, specifically including, but not limited to:
    - (a) Assessing civil penalties and filing misdemeanor complaints and minor misdemeanor citations for violations of this Zoning Code, or violations of terms or conditions set by the Board of Zoning Appeals and Plan Board in the course of their review of applications, and/or,
    - (b) Appearing and testifying in judicial and quasi-judicial proceedings as required in enforcing this Zoning Code.
  - (5) The Zoning Administrator may file a misdemeanor complaint pursuant to Section 150.130.6, or assess a civil penalty pursuant to Section 150.130.9, or both, against a person who fails to comply with a notice of violation issued pursuant to Section 150.130.5 of this Zoning Code; provided, however, that as to any one person and violation the Zoning Administrator shall not assess a civil penalty following a misdemeanor conviction, nor shall the Zoning Administrator file a misdemeanor complaint following payment of a civil penalty and correction of the underlying violation.
  - (6) The Zoning Administrator may pursue additional legal or equitable remedies, including injunctive relief, as necessary to enforce the provisions of this Zoning Code.
  - (7) 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
  - (8) 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, or violations of terms or conditions set by the Landmarks Commission in the course of their review of applications. 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; amend Ord. 31490-16, passed 5-04-16)
  - (4) The Preservation Officer is empowered to bring such civil action or criminal charges as may be necessary to enforce the provisions of 150.345 Historic Overlay Districts. (Ord. 30515-05, passed 12-28-05; amend Ord. 30594-06, passed 8-23-06).

150.130.4 Stop Work Order Election of Remedies

The Zoning Administrator may file a misdemeanor complaint pursuant to Section 150.130.6(B), or assess a civil penalty pursuant to Section 150.130.9, or both, against a person who fails to comply with a notice of violation issued pursuant to Section 150.130.5 of this Zoning Code; provided, however, that as to any one person and violation the Zoning Administrator shall not assess a civil penalty following a misdemeanor conviction, nor shall the Zoning Administrator file a misdemeanor complaint following payment of a civil penalty and correction of the underlying violation. The Zoning Administrator may pursue additional legal or equitable remedies, including injunctive relief, as necessary to enforce the provisions of this Zoning Code. (Ord. 30515-05, passed 12-28-05; amend Ord. 30594-06, passed 8-23-06)

The Zoning Administrator or Preservation Officer, or their representatives may order, orally if necessary, that work being performed in violation of this Zoning Code be immediately stopped. The Zoning Administrator shall direct the order to the person performing the work and the owner, or authorized agent of the owner, of the property where the work is being performed. The Zoning Administrator shall reduce an oral order to writing as promptly as possible, and serve the order upon the person performing the work and the owner, or authorized agent of the owner, of the property where the work is being performed. Each order issued pursuant to this section shall direct the removal of work performed in violation of this Zoning Code and prohibit the performance of any further work until the requirements of this Zoning Code are met. (Ord. 30515-05, passed 12-28-05; amend Ord. 30594-06, passed 8-23-06) [Editor’s note: moved from 150.130.8, no content changes made]

150.130.5 Permit Revocation and Vacation of Premises Notice of Violation

(A) The Zoning Administrator may issue a revocation notice to revoke a permit, certificate, or administrative approval that was issued contrary to this code or based upon false information or misrepresentation in the application. Repeated offenses relating to failure to adhere to applicable performance standards, permitted hours of operation, and failure to maintain premises in accordance with the standards of the Zoning Code are also cause for the revocation of a permit. The Zoning Administrator may revoke a permit that has failed to comply with conditions placed by the Board of Zoning Appeals, Plan Board, or Landmarks Commission.

(B) The Zoning Administrator, on finding a building, premises or a part of a building or premises used or occupied in violation of any provision of the Zoning Code, has the authority to order such illegal use or occupancy terminated. When in the opinion of the Zoning Administrator, the termination of the illegal use or occupancy can only be insured through vacation of the building, premises or part thereof, the Zoning Administrator may order the owner or the occupant or both to vacate the building, premises, or part of the building or premises that is being illegally used or occupied.

150.130.6 Procedure for Notices of Violation

(A) Except for misdemeanor offenses specified in section 150.130.6(A) and minor misdemeanor offenses specified in section 150.130.6(C), the Zoning Administrator shall issue a written notice of violation to any person violating one or more sections of this Zoning Code. The notice of violation A notice of violation shall:

- (1) Identify by street address and lot number, if known, the property subject to the notice of violation;
- (2) Contain a brief statement of the violation and the section or sections of the Zoning Code violated;
- (3) Order remedial actions required by the Zoning Code to eliminate or correct the violation; and
- (4) Specify a reasonable time for completing the remedial actions required to eliminate or correct the violation.
- (5) Provide a notice of penalties should compliance not be gained and civil offenses filed.
- (6) Provide instructions for appealing the notice of violations to the Board of Zoning Appeals, as provided in 150.120 Appeals and Variances.

(B) Except for violations of Section 150.363, each notice of violation issued pursuant to this section shall contain the following warning:

FAILURE TO TIMELY COMPLY WITH THIS NOTICE OF VIOLATION SUBJECTS YOU TO A FINE NOT TO EXCEED \$500.00 AND/OR INCARCERATION NOT TO EXCEED 60 DAYS UPON CONVICTION, OR A CIVIL PENALTY NOT TO EXCEED \$50.00 PER DAY OR \$500.00 TOTAL, OR BOTH A CIVIL PENALTY AND CRIMINAL PROSECUTION.

For violations of Section 150.363, each notice of violation issued pursuant to this section shall contain the following warning:

FAILURE TO TIMELY COMPLY WITH THIS NOTICE OF VIOLATION SUBJECTS YOU TO A FINE NOT TO EXCEED \$500.00 AND/OR INCARCERATION NOT TO EXCEED 60 DAYS UPON CONVICTION, OR A CIVIL PENALTY NOT TO EXCEED \$1,000.00 PER DAY OR \$50,000.00 TOTAL, OR BOTH A CIVIL PENALTY AND CRIMINAL PROSECUTION.

(C) The Zoning Administrator shall serve a notice of violation issued pursuant to this section by one of the following methods:

(1) By giving the notice of violation to the person served;

(2) By leaving the notice of violation with a person of suitable age and discretion residing with the person served;

(3) By sending the notice of violation by ordinary mail to the last known address of the person served and to the subject property.

(4) By sending the notice of violation by certified mail to the last known address of the person served and receiving a return receipt showing delivery of the mailing; or

(5) In the event a notice of violation sent by certified mail, return receipt requested, is returned undelivered, by sending the notice of violation by ordinary mail to the last known address of the person served and by posting the notice of violation on the property subject to the notice of violation. (Ord. 30515-05, passed 12-28-05; amend Ord. 30594-06, passed 8-23-06; amend Ord. 31426-15, passed 7-29-15)

(D) The Zoning Administrator may elect to provide additional time to the person or entity to comply with the terms of the notice of violation. A statement of intent, affidavit or other written communication may be used by the Zoning Administrator to schedule and coordinate construction or other activity required to achieve compliance.

(E) Should a notice of violation, or subsequent agreements for timing of compliance as specified above, fail to be complied with, the Zoning Administrator shall pursue civil penalties or criminal enforcement as specified in [Misdemeanor Penalties] below.

## 150.130.7 Civil Penalties Misdemeanor Offenses

(A) Subject to Section 150.130.43, the Zoning Administrator may assess a civil penalty against any person who fails to comply with a notice of violation issued pursuant to section 150.130.5 of this Zoning Code. The purpose of the civil penalty is to fairly and efficiently effect a remediation of the violation. To accomplish this purpose, the Zoning Administrator shall establish and promulgate a schedule of assessed penalties based on the severity of the violation; provided, however, that the maximum civil penalty assessed by the Zoning Administrator pursuant to this section shall not exceed Fifty Dollars (\$50.00) per day or Five Hundred Dollars (\$500.00) total. For violations of Section 150.363, the maximum civil penalty assessed by the Zoning Administrator pursuant to Section 150.130.5 shall not exceed One Thousand Dollars (\$1,000.00) per day or Fifty Thousand Dollars (\$50,000.00) total. \$1,000.00 per day that has expired after the determined date set for compliance. The Zoning Administrator may assess civil penalties for each day the violation continues.

(B) The Zoning Administrator shall send a written notice of assessment to a person assessed a civil penalty pursuant to this section. The Zoning Administrator shall send the notice by ordinary mail to the last known address of the person. The notice shall state the total amount assessed against the person based on the schedule of assessed penalties established by the Zoning Administrator. The notice shall also inform the person assessed the civil penalty that the person may appeal the assessment by filing a written notice of appeal with the Director of Planning, Neighborhoods & Development within ten (10) days of the written notice of assessment.

(C) Once a civil penalty has been assessed, The Director of Planning, Neighborhoods & Development shall hear an appeal filed pursuant to this section within thirty (30) days of receiving the notice of appeal and shall issue a written decision promptly after the hearing. The decision of the Director of Planning, Neighborhoods & Development is final, subject to judicial review.

(D) In addition to civil fines, a person who causes, whether by neglect or willful action or inaction, an alteration of or environmental change or demolition affecting a historic landmark or a historic site within a Historic District in violation of this chapter shall be required to restore the structure or property to its appearance as the Landmark Commission may approve. The Preservation Officer has the power to bring actions to enforce this section. This civil remedy is in addition to and not in lieu of a criminal prosecution and penalty or civil prosecution.

(E) Upon passage of any applicable appeal time, the Director of Planning, Neighborhoods & Development shall send to the Director of Finance for collection any unpaid civil penalty assessed pursuant to this section. (Ord. 30515-05, passed 12-28-05; amend Ord. 30594-06, passed 8-23-06; amend Ord. 31426-15, passed 7-29-15; amend Ord. 31738-19, passed 5-29-19; amend Ord. 31967-22, passed 2-16-22).

## 150.130.78 Misdemeanor Offenses

(A) Any person who knowingly violates sections 150.135.1 or 150.135.6 of this Zoning Code, or knowingly violates a stop work order issued pursuant to section 150.130.84 of this Zoning Code, is guilty of a misdemeanor of the first degree. This includes failure to comply with a notice of violation pertaining to citations of the same sections. Each day a violation continues is a separate offense.

(B) Any person who fails to comply with a notice of violation issued pursuant to section 150.130.5 of this Zoning Code is guilty of a misdemeanor of the third degree. No culpable mental state is required to violate a notice issued pursuant to section 150.130.5; it being the express intent of this section to impose strict criminal liability for each violation. Each day a violation continues is a separate offense.

(C) Any person who violates the sections listed in Schedule 150.130.8 is guilty of a minor misdemeanor. No culpable mental state is required to violate these sections; it being the express intent of this section to impose strict criminal liability for each violation. Each day a violation continues is a separate offense. 150.130.6; 150.135.1, 150.135.6; 150.305.5; 150.310.7; 150.315.6; 150.315.9; 150.320.5; 150.320.6; 150.325.5; 150.325.7; 150.325.10; 150.330.5; 150.330.6; 150.330.10; 150.335.5; 150.335.11; 150.340.5; 150.340.7; 150.345.16; 150.410; 150.420.1; 150.420.1.5; 150.430.2; 150.565.12.5; 150.565.24.5; 150.900.4; 150.900.5; 150.900.8; 150.900.13; 150.900.14; 150.900.15; 150.900.17; or 150.900.19 of this Zoning Code is guilty of a minor misdemeanor. No culpable mental state is required to violate Sections 150.130.6; 150.135.1, 150.135.6; 150.305.5; 150.310.7; 150.315.6; 150.315.9; 150.320.5; 150.320.6; 150.325.5; 150.325.7; 150.325.10; 150.330.5; 150.330.6; 150.330.10; 150.335.5; 150.335.11; 150.340.5; 150.340.7; 150.345.16; 150.410; 150.420.1; 150.420.1.5; 150.430.2; 150.565.12.5; 150.565.24.5; 150.900.4; 150.900.5; 150.900.8; 150.900.13; 150.900.14; 150.900.15; 150.900.17; or 150.900.19 of this Zoning Code; it being the express intent of this section to impose strict criminal liability for each violation. Each day a violation continues is a separate offense.

(D) The penalty for any person convicted pursuant to this section is set forth in Section 130.99 of the Revised Code of General Ordinances. In addition, a court may order a person convicted pursuant to this section to correct the violation, if possible, and to make restitution for any property damage caused by the violation.

Whenever the offender has previously been convicted of a violation of 150.130.6(C), then a subsequent violation shall constitute a fourth degree misdemeanor, punishable by up to thirty days in jail and a fine up to \$250.00. Whenever the offender has been previously convicted of two or more violations of 150.130.6(C), the subsequent violation shall constitute a third degree misdemeanor, punishable by up to sixty days in jail and a fine up to \$500.00. (Ord. 30515-05, passed 12-28-05; amend Ord. 30594-06, passed 8-23-06; amend Ord. 30643-07, passed 3-21-07; amend Ord. 30762-08, passed 7-16-08; amend Ord. 31028-10, passed 10-20-10; amend Ord. 31283-13, passed 12-18-13; amend Ord. 31574-17, passed 7-05-17; amend Ord. 31738-19, passed 5-29-19)

150.130.79 Minor Misdemeanor Citation

(A) The Zoning Administrator, and any authorized officer of the City, may issue a minor misdemeanor citation to a person who violates any section of this Zoning Code specified in section 150.130.6(C) of this Zoning Code.

(B) A minor misdemeanor citation issued pursuant to this section shall:

- (1) Contain the name and address of the person being served;
- (2) Describe the offense charged;
- (3) Give the numerical designation of the applicable section of this Zoning Code;
- (4) State the name of the person who issued the citation;
- (5) Order the person served to appear at a stated time and place;
- (6) Inform the person served that, in lieu of appearing at the time and place stated, the person may, within that stated time, appear personally at the office of the Clerk of Dayton Municipal Court and upon signing a plea of guilty and a waiver of trial pay a stated fine and stated costs, if any;
- (7) Inform the person served that, in lieu of appearing at the time and place stated, the person may, within a stated time, sign the guilty plea and waiver of trial provision of the citation, and mail the citation and a check or money order for the total amount of the fine and costs to the violations bureau of Dayton Municipal Court;
- (8) Inform the person served that the person may be arrested if the person fails to appear either at the office of the Clerk of Dayton Municipal Court or at the time and place stated in the minor misdemeanor citation.

(C) The Zoning Administrator, or other authorized officer of the City, issuing a minor misdemeanor citation pursuant to this section shall complete and sign the citation; serve a copy of the citation upon the person to the person either directly or through certified mail, or by regular mail to the last known address should the certified mail fail to be delivered or signed by the recipient; and, without unnecessary delay, swear to and file the original citation with the Dayton Municipal Court.

(D) Where a person served appears at the time and place designated in the minor misdemeanor citation but does not sign a guilty plea and waiver of trial, the court shall proceed in accordance with Rule 5 of the Ohio Rules of Criminal Procedure. (Ord. 30515-05, passed 12-28-05; amend Ord. 30594-06, passed 8-23-06)

150.130.8 Fees

The City Commission shall establish a non-refundable fee for each notice of appeal and each application for a zoning certificate, occupancy certificate, variance, conditional use permit, sign permit, site design plan, and text or map amendment filed pursuant to this Zoning Code. The Plan Board may waive the fee for any application filed on behalf of the City or any political subdivision of the State of Ohio. (Ord. 30515-05, passed 12-28-05; amend Ord. 30594-06, passed 8-23-06)

In addition to fees as generally listed for projects in Section 153 Unified Building Code, the following fees shall be applied where applicable to offset the costs of enforcement. These fees shall be applied where an applicant has sought compliance with the Zoning Code and has applied for permits. These fees may be waived at the sole discretion of the Zoning Administrator:

<b>Schedule 150.130.10 Administrative Fees for Enforcement</b>	
<b>Construction or Occupation without a Zoning Certificate</b>	<b>Equivalent to the cost of the Zoning Certificate Fee, maximum \$2,000.00</b>
<b>Enforcement of a Zoning Condition as provided by the Board of Zoning Appeals, Plan Board, or Zoning Administrator</b>	<b>\$250 per Condition</b>
<b>Placement of a Zoning Condition on a Permit Approval Where Monitoring for Compliance is Required</b>	<b>\$100 per Condition</b>
<b>Sign Erected Without a Permit</b>	<b>\$100 per Sign</b>
<b>Construction within an HD-1, HD-2 or HD-3 district without a Certificate of Appropriateness</b>	<b>\$100 per Condition</b>

**Description:** A Zoning Code Text Amendment application submitted by a property owner with a purchase option and a prospective user (SAICA PACK US, LLC) that would do the following:

- 1.) Remove "paper and pulp" from uses prohibited in the City of Dayton
- 2.) Add a land use designation into the zoning code entitled "Recycled paper product manufacturing."
- 3.) Add into the use table for the Business Park (BP) zoning district "Recycled paper product manufacturing" and allow it only as part of a Planned Development in said district.
- 4.) Create additional requirements for PD and Final Plan applications.
- 5.) Add one criterion for Final Plan Review.

\*\*\*The application is being brought forward in anticipation of a potential Planned Development zoning overlay application for a Recycled paper product manufacturing facility at the northeast corner of Little Richmond Road and Olive Road at parcels R72317402 0009 and R72317402 0009 which have a combined area of approximately 178 acres. \*\*\*

**Rationale:** Manufacturing processes change with updated technology, making them less noxious than previously determined, as in the case of recycled paper manufacturing.

Schedule 150.340.2  
PERMITTED USES IN INDUSTRIAL DISTRICTS

	I-1 Light Industrial	I-2 General Industrial	BP Business Park
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		P*8	
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>(2) Industrial</b>			
a. Construction & demolition waste facility		C	
b. Crematorium		C	
c. Cryptocurrency mining operation		P	
d. Incinerator		C	
e. Junkyard		C	
f. Manufacturing, heavy		P <sup>4</sup>	C <sup>1,4</sup>
g. Manufacturing, light	P	P	P <sup>1</sup>
h. Medical marijuana establishment, cultivation	P	P	P
i. Microbotler	P*	P*	P*
j. Recycling collection facility, large		P	
k. Recycling collection facility, small	P	P	
l. Recycled paper manufacturing			PD
m. Recycling processing facility, indoor	P	P	
n. Recycling processing facility, outdoor		P	
<del>o. Sand, limestone, shale, clay, dirt &amp; gravel operations</del>		C	
p. Sanitary waste facility		C <sup>5</sup>	
q. Sewage/liquid waste treatment facility		C	
r. Solid waste composting facility, Class IV	P*	P*	
s. Water supply/treatment facility	C	C	C

Section 150.200 Definitions

**Manufacturing, chemical.** The manufacture of organic or inorganic chemicals.  
**Manufacturing, heavy.** An establishment engaged in manufacturing, assembly, fabrication, packaging or other industrial processing of products primarily from extracted or raw materials, or the bulk storage and handling of such products and materials, or an industrial establishment having potential to produce noise, dust, glare, odors or vibration beyond its property line.

- (a) This term includes, but is not limited to:
- (i) Bottling of beverages excluding a "Microbotler."
  - (ii) Chemical manufacturing.
  - (iii) Fabrication of metal products.
  - (iv) Manufacturing of agricultural, construction or mining machinery.
  - (v) Motor vehicle manufacturing.
  - (vi) Processing and packaging of alcohol beverages excluding a "Microbotler."
  - (vii) Recycled paper product manufacturing, excluding those uses prohibited in (b) below.
  - (viii) Sawing and planing mills.
  - (ix) Ship or boat construction.
  - (x) Stonework, concrete or cement product manufacturing.
- (b) **Prohibited Uses.** For the purposes of clarifying the definition of heavy manufacturing, heavy manufacturing does not include the following, which are examples of those uses that are prohibited in all Districts:
- (i) The manufacturing of acetylene, cement, gypsum or plaster of Paris, chlorine, corrosive acid or fertilizer, insecticides, poisons, explosives, ~~paper and pulp~~, paint, lacquer, petroleum products except the molding of plastic into goods, coal products, and radioactive materials.
  - (i) Smelting, animal slaughtering, and oil refining.
  - (i) Solid waste composting facilities, Class I, II, and III.
  - (i) Paper and pulp manufacturing from raw timber, or by sulphite processes emitting noxious gases or odors.

- **December 10, 2024** – Plan Board will review the Zoning Code Text Amendments.
- **January 14, 2025** – Plan Board will be asked to make a recommendation to City Commission.
- **First Quarter 2025** – Text Amendments will be heard by City Commission for final approval.

If you have questions, comments, or concerns that you would like to have addressed and shared with Plan Board, please reach out to:

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