City of Dayton, Ohio
Zoning Code

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Section 150.100
Title, Purpose, and Applicability

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150.100.1 Title

These rules, regulations, procedures and accompanying maps shall be known, cited and referred to as the City of Dayton Zoning Code. This Zoning Code includes standards for planning, establishing zoning lots, and developing land within the City. (Ord. 30515-05, passed 12-28-05)

150.100.2 Authority and Scope

This Zoning Code is adopted by the City pursuant to its authority under the Ohio Revised Code and the City of Dayton Charter. Nothing in this Zoning Code is construed to limit the Dayton City Commission in the exercise of all of the powers to zone or redistrict now or hereafter as authorized by the Ohio Revised Code or the City Charter. (Ord. 30515-05, passed 12-28-05)

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. (Ord. 30515-05, passed 12-28-05)

150.100.4 Applicability

(A) No structure shall be located, erected, constructed, reconstructed, moved, converted, or enlarged; nor shall any structure or land be used or be designed to be used, except in full compliance with all the provisions of this Zoning Code and, when required, after the lawful issuance of the permit(s) required by this Zoning Code.

(B) Existing lots, buildings, structures and uses of land that do not comply with the regulations of this Zoning Code are subject to the regulations set forth in Section 150.140, Nonconforming Uses, Buildings, Structures, and Lots.

(C) No lot, setback, parking area or other space shall be reduced in area or dimensions so as to make such area or dimension less than the minimum required by this Zoning Code. No part of a setback, parking area or other space provided about or for any building or structure for the purpose of complying with the provisions of this Code shall be included as part of a required setback, parking area or other space required under this Code for another building or structure. (Ord. 30515-05, passed 12-28-05)

150.100.5 Interpretation

(A) Unless specifically noted otherwise, in interpreting and applying the provisions of this Zoning Code, these provisions shall be considered the minimum requirements necessary for the promotion of the public health, safety and general welfare. They shall be liberally construed to further the purposes and objectives set forth herein and the purposes and intent of each district as set forth in each district Section.

(B) Where the conditions imposed by any provision of this Zoning Code upon the use of land, buildings, or structures are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this Zoning Code; or of any other law, ordinance, resolution, rule or regulations of any kind, the regulations that are more restrictive shall govern.

(C) If the provisions of the Zoning Code are inconsistent with one another, the more restrictive provision will control.

(D) The Zoning Administrator and/or the Director of the Department of Planning and Community Development shall develop, as they see fit, policies, procedures, and applications to implement, administer, and clarify the Zoning Code. (Ord. 30515-05, passed 12-28-05)

150.100.6 Severability

Sections and sub-sections of this Zoning Code and the several parts or provisions thereof are hereby declared to be independent Sections, sub-sections, parts and provisions. If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, word or provision of this Zoning Code, or amendment thereto, or any application of any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, word or provision to particular circumstances is held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Zoning Code or amendments thereto, or the application of such provision to other circumstances. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09)

150.100.7 Repeal of Existing Code

The Zoning Code of the City of Dayton, Ohio, adopted February 7, 1968, by Ordinance 22852, and as subsequently amended together with the Zoning Map, is hereby superseded and amended to read as set forth in this Zoning Code Update, adopted December 28, 2005, by Ordinance 30515-05, and effective August 1, 2006. (Ord. 30515-05, passed 12-28-05)

150.100.8 Effective Date

This Zoning Code, and amendments thereto, shall take effect and be in full force and effect from and after the earliest period allowed by law. (Ord. 30515-05, passed 12-28-05)

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Section 150.105

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Section 150.110
Administrative Powers and Duties

§150.110.1 Purpose
§150.110.2 Zoning Administrator
§150.110.3 Plan Board
§150.110.4 Board of Zoning Appeals
§150.110.5 Landmark Commission
§150.110.6 City Commission

150.110.1 Purposes

This Section sets forth the powers and duties of the Zoning Administrator, the Plan Board, the Board of Zoning Appeals, the Landmark Commission, and the City Commission with respect to the provisions of this Zoning Code. (Ord. 30515-05, passed 12-28-05)

150.110.2 Zoning Administrator

(A) Establishment. The Zoning Administrator shall act as the administrative officer for the purpose of effecting the proper administration and enforcement of the Zoning Code. The Zoning Administrator shall delegate to any person he or she designates all duties required of the Zoning Administrator.

(B) Powers and Duties. The Zoning Administrator or his/her designee shall have the following powers and duties:

(1) Enforce and administer the provisions of this Zoning Code;

(2) Approve and issue all zoning and occupancy certificates and make and maintain records thereof;

(3) Conduct inspections of buildings, structures, and uses of land to determine compliance with the terms of this Zoning Code;

(4) Permit Minor Variances from certain provisions of the Zoning Code within the guidelines set forth in sub-section 150.120.12, Minor Variances by the Zoning Administrator.

(5) Permit substitution of a nonconforming use for a prior nonconforming use within the guidelines set forth in sub-section 150.140.4(F), Change or Substitution of Use.

(6) Approve Minor Site Design Plans within the guidelines set forth in sub-section 150.115.4, Site Design Review.

(7) Determine similar uses within the guidelines set forth in Section 150.415, Similar Uses.

(8) Determine non-conforming status of lots, buildings, property, uses, or site conditions.

(C) Applications. No permit shall be issued based on the non-conforming status of a property subsequent to a final decision regarding any application concerning the property submitted pursuant to the Zoning Code by the Board of Zoning Appeals, Plan Board, or City Commission for a minimum period of one year following such decision. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09)

150.110.3 Plan Board

(A) Membership of Board; Appointment; Term. The City Plan Board shall consist of seven (7) voting members appointed by the City Commission. All members shall be residents of the City of Dayton during the term of their appointment. Members of the Board shall serve for a term of office of three years or until their successor(s) have been appointed and qualified. All members shall serve without compensation. Members shall also comply with any requirements found in Chapter 44, Division 3, City Plan Board, of the R.C.G.O.

(B) Advisory Members of Board. The City Manager and/or the Director of Planning and Community Development may meet and serve, at their discretion, as advisory members of the Board, but without the right to vote.

(C) Removals and Vacancies. The City Commission shall remove for cause any voting member of the City Plan Board. The City Commission shall fill any vacancy on the Plan Board for the unexpired term. Three consecutive absences unexcused by the Plan Board, or failure to attend a majority of meetings of the Plan Board in any six-month period, or loss of residency shall constitute and have the effect of, a resignation from the Plan Board.

(D) Organization of the Plan Board. The City Plan Board shall annually elect a Chair and Vice-chair.

(1) Secretary to the Board. The Director of Planning and Community Development or his/her designee shall act as Secretary to the Plan Board and shall:

a) Maintain permanent and current records of the Zoning Code, including, but not limited to, all maps, amendments, conditional uses, variances and appeals; and the applications therefore and the records of hearings thereon.

b) Compile and have printed in book, pamphlet, map, or electronic form:

1) The current complete text of the Zoning Code and all amendments thereto.

2) The zoning map or maps showing the zoning districts, divisions, and classifications currently in effect in the City.

c) Compile and have printed in book, pamphlet, or electronic form the current rules of the City Plan Board and of the Board of Zoning Appeals.

d) Maintain for distribution to the public a supply of copies of the zoning map, the text of the Zoning Code, and the rules of the City Plan Board and The Board of Zoning Appeals.

e) Act as a hearing officer.

f) Communicate the decisions of the Plan Board to the City Commission and the City Manager.

(E) Meetings and Rules. The City Plan Board shall set meetings at such time and place as the Plan Board may determine. A majority of all appointed voting members shall constitute a quorum and it may adopt such rules of procedure, as it may deem necessary. In the absence of an adopted rule, Robert's Rule of Order shall prevail.

(F) Powers and Duties of the Plan Board. The City Plan Board shall have the following powers and duties:

(1) To make and adopt plans and maps as policy guides for the City of Dayton.

(2) Approve Major Site Design Plans.

(3) Review amendments to the Zoning Code initiated by the City Commission or a property owner.

(4) Propose on its own initiative amendments to the Zoning Code.

(5) Approve subdivision plats.

(6) To review and make recommendations to the City Commission regarding the vacation of rights-of-way subject to the criteria set forth in Section 150.445, Vacation of Rights-of-Way.

(7) In the case of Planned Developments, to authorize such variances from the terms of this Zoning Code as will not be contrary to the public interest where, owing to the special conditions, a literal enforcement of this Code will result in practical difficulty and so that the spirit of this Code shall be observed and substantial justice done. The Plan Board shall review variances according to the criteria set forth in sub-section 150.120.10, Variances Based on Practical Difficulty.

(8) To hear and decide any other matters upon which it is required to take action under the Zoning Code. (Ord. 30515-05, passed 12-28-05; amend Ord. 31028-10, passed 10-20-10; amend Ord. 31738-19, passed 5-29-19)

150.110.4 Board of Zoning Appeals

(A) Membership of Board; Appointment; Term. The Board of Zoning Appeals ("BZA") shall consist of seven (7) members who shall be residents of the City. Members of the BZA shall be appointed by the City Commission for terms of three years or until their successor has been duly appointed and qualified. At least three (3) of the seven (7) members appointed by the City Commission shall have registration, licensure, professional experience or education in one of the following fields: architecture,

landscape architecture, planning, urban design, engineering, geography, law or real estate. However, no more than two of the aforesaid members shall be from any one of the aforesaid professions. All members of the BZA shall serve without compensation.

(B) Removals and Vacancies. The members of the BZA shall be subject to removal for cause by the City Commission. The City Commission shall fill any vacancy on the BZA for its unexpired term. Three consecutive absences unexcused by the BZA, or failure to attend a majority of meetings of the BZA in any six-month period, or loss of residency, shall constitute and have the effect of a resignation from the BZA.

(C) Quorum and Meetings. The BZA shall set meetings at such time as the Board may determine. A majority of all appointed members shall constitute a quorum.

(D) Hearings and Rules. All hearings that this Zoning Code requires the BZA to conduct shall be open to the public. Any person may appear and testify at a hearing, either in person or by a duly authorized agent or attorney. During a hearing the BZA may move into executive session in accordance with its adopted Rules and Regulations. The BZA shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or abstaining from voting, so indicating, and shall also keep records of its hearings and other official actions. Every rule or regulation and every order, requirement, decision, or determination of the BZA shall be filed immediately with the Zoning Administrator and shall be a public record. The BZA shall adopt and publish its own rules of procedure not in conflict with this Zoning Code or law.

(E) Secretary to the Board of Zoning Appeals. The Director of Planning and Community Development or his/her designee shall act as Secretary to the Board of Zoning Appeals and shall:

(1) Maintain permanent and current records of the meetings held by the Board of Zoning Appeals as well as the actions taken at these meetings.

(2) Communicate the decisions of the Board of Zoning Appeals to the applicant, the Zoning Administrator, the City Commission, and the City Manager.

(3) Be authorized and may grant one six-month extension for the approval of variances and conditional uses upon written request, without a public hearing, provided the Board of Zoning Appeals and the Zoning Administrator are notified of the extension.

(F) Powers and Duties. The Board of Zoning Appeals shall have the following powers and duties:

(1) To hear and decide appeals where it is alleged there is 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.

(2) To authorize such variances from the terms of this Zoning Code as will not be contrary to the public interest where, owing to the special conditions, a literal enforcement of this Code will result in practical difficulty or, in the case of use

variance, unnecessary hardship, and so that the spirit of this Code shall be observed and substantial justice done. The BZA shall review variances according to the criteria set forth in sub-section 150.120.10, Variances by the Board of Zoning Appeals.

(3) To hear and decide applications for conditional uses subject to the procedure and standards set forth in Section 150.500, Conditional Use and Specific Use Regulations.

(4) To hear and decide applications for site design plans subject to the standards set forth in sub-section 150.115.10, Site Design Plan Review Criteria, when the application also requires a conditional use permit. When performing this duty, the BZA may grant the exemptions, which are permitted elsewhere in this Code, normally heard and decided by the Plan Board or the Zoning Administrator

(5) To hear and decide disputes with respect to the precise location of a zoning district boundary, using, where applicable, the standards and criteria set forth in sub-section 150.300.4, Interpretation of District Boundaries.

(6) To permit the substitution of one non-conforming use with another non-conforming use using the standards set forth in sub-section 150.140.4(F), Change or Substitution of Use, when the issue is beyond the jurisdiction of the Zoning Administrator.

(7) To hear and decide any other matters upon which it is required to take action under the Zoning Code.

(G) The Department of Planning and Community Development shall provide such clerical, technical and consulting assistance as may be required by the Board of Zoning Appeals as shall other city officials in the exercise of their duties relating to the Zoning Code.

(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 following the date the written decision by the Board of Zoning Appeals is issued. 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; amend Ord. 31490-16, passed 5-04-16; amend Ord. 31752-19, passed 9-4-19)

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:

(A) Membership. Membership of the Landmark Commission shall be as described in Chapter 44 of the R.C.G.O. Members shall comply with any requirements found in Chapter 44 of the R.C.G.O.

(B) Duties of The Landmark Commission. The Landmark Commission shall recommend the designation of particular historic districts and single parcels including the adoption of

controls on particular parcels through amendments to the official zoning map, shall review and act upon all applications for certificates of appropriateness for modifications not specifically assigned to the Preservation Officer, shall set policies regarding interpretations of architectural design standards, shall hear appeals from the decisions of the Preservation Officer for all other modifications, and shall create and maintain the Dayton Register.

(C) Quorum and Meetings. The Landmark Commission shall set meetings at such time as the Commission may determine. A majority of all appointed members shall constitute a quorum.

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

(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.

(2) Secretary to the Landmark Commission. The Director of Planning and Community Development or his designee shall act as the Secretary to the Landmark Commission and shall maintain records and minutes of all proceedings of the Landmark Commission, and shall issue Certificates of Appropriateness resulting from proposals reviewed and approved by the Landmark Commission. (Ord. 30515-05, passed 12-28-05; amend Ord. 31283-13, passed 12-18-13; amend Ord. 31490-16, passed 5-04-16)

150.110.6 City Commission

For the purposes of this Zoning Code, the City Commission shall have the following powers and duties:

(A) Hold public hearings and vote upon proposed amendments to this Zoning Code.

(B) Investigate and propose on its own initiative such amendments to the Zoning Code as it may deem consistent with the purposes of this Zoning Code and which further the public, health, safety, and general welfare of the City of Dayton.

(C) Act upon suggested amendments to this Code text or the Official Zoning District Map.

(D) Confirm or reject the recommendation of the Plan Board for a Planned Development District according to the procedures, standards and criteria stated in this Zoning Code.

(E) Appoint members to the City Plan Board, Board of Zoning Appeals, and Landmark Commission.

(F) Establish by ordinance a schedule of fees.

(G) Upon the recommendation of the Plan Board, approve and/or adopt plans, studies, strategies or other planning policies. (Ord. 30515-05, passed 12-28-05; amend Ord. 31752-19, passed 9-4-19)

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Section 150.115
Site Design Review Procedures

§150.115.1 Purpose
§150.115.2 Developments and Uses Requiring a Site Design Plan
§150.115.3 Exceptions
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§150.115.5 Pre-application Meeting Encouraged
§150.115.6 Site Design Plan Submission Requirements
§150.115.7 Site Design Plan Review Procedures
§150.115.8 Public Meeting Notice for Major Site Design Reviews
§150.115.9 Minimum Standards & Improvements Required
§150.115.10 Site Design Plan Review Criteria
§150.115.11 Equivalency Provision
§150.115.12 Significance of an Approved Plan; Plan Revisions
§150.115.13 Expiration of Site Design Plan Approval
§150.115.14 Appeals and Finality of Decisions
§150.115.15 Approval of Site Design Plan Requiring Variances

150.115.1 Purpose

The purpose of this Section is to provide adequate review of proposed developments in those zoning districts where the uses are of such a nature, because of their size, scale, or effect on surrounding property, that review of specific plans is deemed necessary to protect the public health, safety, and general welfare of the community. (Ord. 30515-05, passed 12-28-05)

150.115.2 Developments and Uses Requiring a Site Design Plan

The following uses and developments shall require submittal of a site design plan:

(A) Any new development or redevelopment in all zoning districts, including conditional uses;

(B) Any change in a previously approved site design plan;

(C) The conversion of an existing residential use to a commercial, industrial or higher density residential use; and,

(D) Modifications to an existing development where site design plan requirements are modified.

(E) Any uses or developments expressly required by this Zoning Code to submit a site design plan. (Ord. 30515-05, passed 12-28-05; amend Ord. 31142-11, passed 12-21-11)

150.115.3 Exceptions

The following are exceptions to Site Design Review:

(A) Individually developed single-family detached dwelling units and individually developed two-family dwellings shall not be subject to site design review. However, these uses shall seek and receive approval for a Zoning Certificate as specified in sub-section 150.135.3, Zoning Certificates for Individually Developed Single-family and Two-family Dwellings. In addition, sites for single-family and two-family dwellings in a subdivision with an approved grading plan shall be graded to be consistent with the approved grading plan for that subdivision.

(B) Replacement uses shall also be exempt from site design review, but do require an occupancy certificate as specified in sub-section 150.135.6, Occupancy Certificates. (Ord. 30515-05, passed 12-28-05; amend Ord. 31142-11, passed 12-21-11)

150.115.4 Site Design Review

(A) Minor Site Design Review. The Zoning Administrator shall have decision-making authority for all site design plans, except as provided for in 150.115.4 (B) and this Code. Zoning Administrator approval shall be considered Minor 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:

(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.

(C) Conditional Uses. For those uses that require a conditional use permit from the Board of Zoning Appeals, the BZA shall also approve the site design plan, whether it is a major or minor site design review, and grant any exceptions or make any determinations otherwise under the purview of the Zoning Administrator or the Plan Board as provided for in this Zoning Code. (Ord. 30515-05, passed 12-28-05; amend Ord. 30762-08, passed 7-16-08; amend Ord. 31142-11, passed 12-21-11; amend Ord. 31490-16, passed 5-04-16)

150.115.5 Pre-application Meeting Encouraged

The applicant is encouraged to meet with the Zoning Administrator, or his/her designee, or with the staff of the Department of Planning and Community Development as well as staff of the Division of Civil Engineering and the Department of Water, prior to submitting an application for site design plan review. The purpose of these meetings is to discuss early and informally with the applicant the purpose and effect of this Zoning Code and the criteria and standards contained within as well as the applicability of other City regulations, such as public rights-of-way or easement vacations, public utility availability, building or parking encroachment into public rights-of-way, subdivision requirements, storm water and street design standards. However, no opinions, suggestions, or recommendations discussed may be relied on by the applicant as a guarantee of subsequent approval or disapproval of the site design plan. (Ord. 30515-05, passed 12-28-05)

150.115.6 Site Design Plan Submission Requirements

The property owner, a leaseholder, or a developer with an option to purchase or lease may file an application for Site Design Review. If the application is filed by an entity other than the property owner, the property owner shall sign the application. An application for site design plan review shall include the following maps, plans, designs and supplementary documents listed below unless determined by the

Zoning Administrator to be inapplicable or unnecessary. Additional submission requirements may be included on the application for site design review. In addition, the Zoning Administrator may require additional items to be submitted. The Zoning Administrator shall determine the number of copies to be submitted.

(A) An accurate legal description or dedication plat prepared and certified by a registered surveyor of the state of Ohio.

(B) A property location map showing existing property lines, easements, utilities, street rights-of-way; and all municipal, corporation, and township lines traversing or immediately adjacent to the subject property accurately referenced to the boundaries within 200 feet of such property by bearings and distances, and the date the map and the information thereon was last updated.

(C) A site design plan, prepared and sealed by a qualified professional and drawn to an appropriate scale, indicating the following:

(1) Use, location and height of existing and proposed buildings and structures.

(2) Location of all public rights-of-way and private streets.

(3) Right-of-way lines of adjoining streets and alleys with their widths and names.

(4) Location, dimensions and acreage of any areas to be dedicated or reserved for public use, with the purposes indicated thereon, and any area to be reserved by deed covenant for the common use of all property owners.

(5) Location and configuration of off-street parking areas and loading areas; the arrangement of internal and in-out traffic movements including access roads and drives; existing and proposed driveways; and lane and other pavement markings to direct and control parking and circulation.

(6) Proposed and existing fences and walls.

(7) Proposed lighting in compliance with Section 150.420.3, Exterior Lighting Standards.

(8) Location and layout of all proposed and existing outdoor storage areas including storage of waste materials, trash receptacles and dumpsters.

(9) Dimensions of all buildings, setbacks, parking areas, drives and walkways.

(D) Preliminary architectural plans for the proposed development or use, showing exterior elevations and building floor plans, prepared by a professional engineer, architect, or surveyor (which shall contain their respective seal).

(E) Proposed landscaping and screening plans describing the number of plants, location, type, size at planting of the proposed vegetation, landscaping and screening elements, and street trees and any existing trees to be removed. If existing plant materials are to be used for screening or other purposes, these existing materials shall be shown on the site design plan including their location, height, species, and caliper size.

(F) Summary table showing total acres of the proposed development; number of acres devoted to each type of use including existing and proposed streets and open space; number of dwelling units by type; floor areas, etc.

(G) The first page of the application (drawings) shall include a description of the zoning requirements, the project's compliance with these requirements and identification of any deviations or variances requested.

(H) Other information necessary for the evaluation of the site design plan as deemed necessary.

(I) Easement agreements or other documents when shared facilities that are under separate ownership, such as parking lots or driveways, are proposed. (Ord. 30515-05, passed 12-28-05; amend Ord. 30762-08, passed 7-16-08; amend Ord. 31028-10, passed 10-20-10; amend Ord. 31142-11, passed 12-21-11)

150.115.7 Site Design Plan Review Procedures

Site Design Plans shall be reviewed, distributed, and approved according to the following procedures.

(A) Review for Completeness. Within seven (7) days after receiving an application, the Zoning Administrator shall review the submitted application for completeness and compliance with the applicable submission requirements. If the application is deemed insufficient, the Zoning Administrator shall notify the applicant of any necessary changes or request additional information that may be_needed. When the application is deemed complete and the application fee has been paid, the Zoning Administrator shall officially accept the application for consideration of the action(s) requested and forward it to the Department of Planning and Community Development for placement on the Plan Board's or Board of Zoning Appeals' agenda for Major Site Design Plan Review or review the application for Minor Site Design Plan Review.

(B) Distribution of Plans. When the Zoning Administrator determines that the application is complete, the Zoning Administrator shall forward the application to the following for review and comment.

(1) All applications shall be transmitted to the appropriate City departments and professional consultants; and,

(2) Applications for proposed construction or modifications in the HD-1, HD-2, and HD-3 Districts shall also be transmitted to the Landmarks Commission for their review and approval.

(3) Any reports, comments, or expert opinions shall be returned to the Zoning Administrator within ten (10) days from the date the application is deemed complete.

(C) Transmission to the Plan Board or Board of Zoning Appeals. For Major Site Design Review or site design plans requiring a Conditional Use Permit, the Zoning Administrator shall distribute the application for site design plan review and any reports prepared by the individuals in sub-section (B) above to the Secretary to the Plan Board or Board of Zoning Appeals. Upon receipt, the Secretary will place it on the next agenda, subject to the rules of the Plan Board or Board of Zoning Appeals.

(D) Action by the Plan Board, Board of Zoning Appeals, or the Zoning Administrator.

The Plan Board, Board of Zoning Appeals, or the Zoning Administrator shall take the following actions:

(1) The Plan Board, Board of Zoning Appeals, or the Zoning Administrator, whichever is applicable, shall review the site design plan according to the criteria in sub-section 150.115.10, Site Design Plan Review Criteria.

(2) Following its review, the Plan Board, Board of Zoning Appeals, or the Zoning Administrator shall either:

(a) Approve the site design plan as submitted; or

(b) Approve the plan subject to specific conditions not included in the plan as submitted, such as, but not limited to, improvements in the setback layout, open space arrangement, on-site control of access to streets, or such features as fences, walls and plantings to further protect and improve the proposed and surrounding developments; or

(c) Disapprove the plan. If the Zoning Administrator, Plan Board, or Board of Zoning Appeals finds that a proposed plan does not meet the purposes or requirements of these regulations, the plan will be disapproved. In the event of disapproval, the Zoning Administrator, Plan Board, or Board of Zoning Appeals shall submit its findings in writing to the applicant, upon the applicant's request.

(3) Issue of Zoning Certificate. If the site design plan is approved or approved with conditions, the Zoning Administrator shall issue a Zoning Certificate pursuant to Section 150.135, when all necessary approvals have been obtained from other applicable City departments. However, the Zoning Certificate shall not be issued until:

(a) In the event subdivision is required per Section 151.0152 that includes improvements associated with a plat, a surety to guarantee the proper construction and installation of such improvements has been posted per Section 151.80 of the subdivision regulations. In the event a City owned utility must be relocated as part of the site design plan, then a surety to guarantee the proper construction and installation of such utility has been posted with the Department of Water; and/or,

(b) The applicant has executed and delivered to the City a bond or other security approved by the Zoning Administrator and the Director of Law in the amount of the estimated cost of any landscaping, screening, or other site improvement required at the time of approval of the site design plan.

(4) Failure of the Plan Board, Board of Zoning Appeals, or the Zoning Administrator to Act. Upon failure of the Plan Board or Board of Zoning Appeals to act within 120 days or failure of the Zoning Administrator to act within thirty (30) days from the date the application was deemed complete, or an extended period as may be agreed upon, the applicant may deem the application disapproved.

(5) Inspections. City agencies responsible for the supervision and enforcement of this Zoning Code shall periodically inspect the site during the period of construction to ascertain compliance with this Zoning Code. (Ord. 30515-05,

passed 12-28-05; amend Ord. 30762-08, passed 7-16-08; amend Ord. 30893-09, passed 7-15-09; amend Ord. 31142-11, passed 12-21-11)

150.115.8 Public Meeting Notice for Major Site Design Reviews

(A) Mailed Notice. For all Major Site Design Review approvals, notice of public meetings shall be mailed to all owners of the property under review and all owners of property listed on the County Auditor's Tax Duplicate within 250 feet of the subject property. The notice shall be deposited in the U. S. Mail at least fourteen (14) days before the date of the public meeting.

(B) Content of the Notice. All notices shall include the following:

(1) The date, time, and place of the public meeting;

(2) A description of the property involved in the application by street address or other means to appropriately identify the property;

(3) The nature, scope, and purpose of the application or proposal; and,

(4) Where additional information can be obtained.

(C) Failure of Delivery. Failure of delivery or receipt of such notices shall not invalidate action taken on such application. (Ord. 30515-05, passed 12-28-05)

150.115.9 Minimum Standards and Improvements Required

Minor and Major Site Design Plans shall comply with the following:

(A) Improvements. Any improvement required by this Zoning Code, or any other ordinance of the City shall be installed at the cost of the developer unless other written agreements have been reached between the developer, and the City.

(B) Construction and Site Improvements. All proposed construction, on-site, and off-site improvements shall conform to the provisions of this Zoning Code and the R.C.G.O. Further, streets, utilities, storm management, and sidewalks shall conform to the applicable provisions of the Subdivision Regulations and any other applicable City Codes or Specifications.

(C) Sidewalks. Sidewalks meeting the applicable design standards in the Subdivision Regulations, the Design Guidelines for Creating a Quality Environment, and the City Engineer's Standard Drawings shall be provided on public land along all parts of a site abutting a developed public street, where such sidewalks do not exist as of the date of the application for site design plan approval. The Plan Board**,** Board of Zoning Appeals, or the Zoning Administrator, whichever is applicable according to Section 150.115, may eliminate or lessen the requirements of this sub-section based on the following standards: proximity of the site to public schools, public parks, and the existing sidewalk network in the area; the location of transit stops; and topographic or other natural constraints.

(D) Easements. Adequate easements shall be provided for drainage and all utilities based on need and/or the physical characteristics of the site.

(E) Phased Development. The site design plan for each phase of a multi-phased development shall demonstrate compliance with the Zoning Code for each phase.

(F) Lots of Record. To receive site design plan approval:

(1) Whenever a vacant non-conforming lot of record adjoins one or more lots that are held in common ownership, such lots shall be re-platted to create a conforming lot.

(2) If the proposed development includes more than one lot of record, all intervening lot lines shall be vacated or extinguished so that the development occupies one lot of record. (Ord. 30515-05, passed 12-28-05; amend Ord. 30762-08, passed 7-16-08; amend Ord. 31142-11, passed 12-21-11)

150.115.10 Site Design Plan Review Criteria

(A) Purpose. Design criteria and performance standards are established to guide the decision making of the Plan Board, Board of Zoning Appeals, or Zoning Administrator when evaluating the appropriateness of development in the City. Specifically these provisions are intended to achieve, among others, the following purposes:

(1) Ensure that development reflects and is sensitive to the history, climate, topography, vegetation, natural features and building traditions of the City of Dayton;

(2) Ensure that new development and redevelopment are integrated into the surrounding environment in an orderly manner and are compatible and harmonious with the existing overall character of the City;

(3) Provide interest along the streetscape and a pedestrian friendly environment;

(4) Foster and encourage creative application of design principles; and,

(5) Promote efficient pedestrian and vehicular circulation and access.

(B) Site Design Plan Review Criteria. In reviewing a site design plan, the Plan Board, Board of Zoning Appeals, or the Zoning Administrator shall consider the location of buildings, parking areas and other features with respect to the topography of the lot and existing natural features such as streams and large trees; the efficiency, adequacy and safety of the proposed layout of internal streets and driveways; the location of the green areas provided, considering the possible effects of irregularly shaped lots; the adequacy of the location, landscaping and screening of the parking lots; and such other matters as the Plan Board, Board of Zoning Appeals, or the Zoning Administrator may find to have a material bearing upon the stated standards and objectives of the various district regulations. In approving a site design plan, the Plan Board, Board of Zoning Appeals, or the Zoning Administrator shall also determine that the site design plan complies with the following Site Design Plan Review Criteria:

(1) The proposed plan is consistent with the goals and objectives of the City's Comprehensive Plan;

(2) The proposed plan is consistent with any other plan or policy statement for the orderly development of the City;

(3) The proposed use is allowed in the zoning district in which it is located;

(4) The proposed plan is consistent with the goals of this Zoning Code which include creating a built environment that reflects and complements Dayton's existing built form;

(5) The appropriate use and value of property within and adjacent to the area will be safeguarded;

(6) The site design plan demonstrates that the proposed development will result in a harmonious grouping of buildings within the proposed development and in relationship to existing and proposed uses on adjacent property;

(7) The development, when completed, will have adequate public service, parking and open spaces;

(8) The plan, to the extent practical, will preserve and be sensitive to the natural characteristics of the site;

(9) Vehicular ingress and egress as well as circulation within the site shall provide for safe, efficient, and convenient movement of traffic not only within the site, but on adjacent roadways, as well;

(10) The site design plan provides for the safe, efficient, and convenient movement of pedestrians on the subject site and adjacent to the subject site;

(11) Adequate provision is made for emergency vehicle access and circulation;

(12) Adequate provision is made for storm drainage within and through the site so as to maintain, as far as practicable, usual and normal swales, water courses and drainage areas, and shall comply with any applicable regulation or design criteria established by the City;

(13) Site lighting is designed to minimize direct light, glare, and excessive glow, which unreasonably interferes with the use and enjoyment of adjacent property. If it is determined that, once the project is completed, the lighting does have unreasonable adverse impact on adjacent property, the Zoning Administrator may order reasonable alterations to the site lighting (such as reduced illumination, shielding, landscaping, etc.) to mitigate such unreasonable impacts; and,

(14) The plan complies with all standards of the R.C.G.O., this Zoning Code, including but not limited to the applicable zoning district's Contextual Standards, Contextual Regulations, and/or Design Elements and Standards, and other adopted City policies. (Ord. 30515-05, passed 12-28-05; amend Ord. 30762-08, passed 7-16-08; amend Ord. 30893-09, passed 7-15-09; amend Ord. 31142-11, passed 12-21-11; amend Ord. 31283-13, passed 12-18-13); amend Ord. 31738-19, passed 5-29-19)

150.115.11 Equivalency Provision

(A) For Minor or Major Site Design Plan applications, the Plan Board, Board of Zoning Appeals, or the Zoning Administrator, whichever is applicable according to Section 150.115, may find that the site design plan either adheres or is equivalent to the requirements of this Code. The Plan Board, Board of Zoning Appeals, or the Zoning Administrator may consider a site design plan equivalent if:

(1) The proposed site design plan substantially complies with all specific requirements and with the purposes, intent and basic objectives of the zoning district; and,

(2) Through imaginative and skillful design in the arrangement of buildings, open space, screening, streets, access drives and other features, as disclosed by the application, the proposal results in a development of equivalent or higher quality than which could be achieved through strict application of such standards and requirements; and

(3) The development, as proposed, will have no adverse impact upon the surrounding properties or upon the health, safety or general welfare of the community.

(B) It shall be the responsibility of the applicant to demonstrate to the Plan Board, Board of Zoning Appeals, or the Zoning Administrator that the provisions of this Section have been satisfied. When evaluating the application with respect to this Section, the Plan Board, Board of Zoning Appeals, or the Zoning Administrator shall make any finding of equivalency in writing that explains how and why the proposal has satisfied on the above criteria. When making such a finding, the Plan Board, Board of Zoning Appeals, or the Zoning Administrator may approve the proposed application as if the application were in strict compliance with the standards and requirements in this Zoning Code.

(C) Approval under this sub-section is not a variance. Instead, this sub-section allows applicants to satisfy zoning requirements in ways not anticipated by the City. (Ord. 30515-05, passed 12-28-05; amend Ord. 30762-08, passed 7-16-08)

150.115.12 Significance of an Approved Plan; Plan Revisions

(A) An approved site design plan shall become for the proposed development a binding commitment of the specific elements approved for development. The approved site design plan may be transferred to another person or entity prior to the issuance of a building permit, and such a transfer shall occur only upon approval of the Zoning Administrator. A request for such a transfer or change of ownership shall be presented to the Zoning Administrator and granted only if the new ownership entity satisfies the administrative, financial, legal and all other performance guarantees approved with the original development plan.

(B) All construction and development under any building permit shall be in accordance with the approved site design plan. Any departure from such plan shall be cause for revocation of the Zoning Certificate and/or Building Permit, and the property owner or other responsible parties are subject to penalties as prescribed by this Zoning Code and the R.C.G.O.

(C) Changes in an approved site design plan shall be resubmitted for approval in accordance with this Section. (Ord. 30515-05, passed 12-28-05; amend Ord. 31142-11, passed 12-21-11)

150.115.13 Expiration of Site Design Plan Approval

An approved site design plan shall remain valid for a period of twelve (12) months following the date of its approval, unless the Zoning Administrator authorizes a longer period at the time of approval or grants an extension to the above stated time frame for good cause shown. If, at the end of that time, construction of the development has not begun, then approval of such site design plan shall expire and shall be of no

effect unless resubmitted and re-approved in accordance with the procedures set forth in this Section. Construction is deemed to have begun when all necessary excavation and piers or footings of one or more principal buildings included in the plan have been completed. (Ord. 30515-05, passed 12-28-05; amend Ord. 30762-08, passed 7-16-08; amend Ord. 30893-09, passed 7-15-09; amend Ord. 31142-11, passed 12-21-11)

150.115.14 Appeals and Finality of Decisions

Appeals of the Zoning Administrator's decision on a Minor Site Design Plan Review application shall be taken to the Plan Board by filing a notice of appeal in the Zoning Administrator's office. Appeals shall be filed within ten (10) days of the Zoning Administrator's decision. Public notice of the appeals shall be provided in accordance with Section 150.115.8, Public Meeting Notice for Major Site Design Reviews.

Decisions by the Plan Board or Board of Zoning Appeals granting or denying approval of Site Design Plan applications 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 following the date the written decision by the Plan Board or Board of Zoning Appeals is issued. (Ord. 30515-05, passed 12-28-05; amend Ord. 30762-08, passed 7-16-08; amend Ord. 30893-09, passed 7-15-09; amend Ord. 31142-11, passed 12-21-11; amend Ord. 31752-19, passed 9-4-19)

150.115.15 Approval of Site Design Plan Requiring Variances

If the development proposal requires both a site design plan and a variance, the applicant shall proceed through the variance process first. When a Planned Development requires a variance, the Plan Board shall have the authority to grant such variances. (Ord. 30515-05, passed 12-28-05; amend Ord. 31738-19, passed 5-29-19)

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Section 150.120
Appeals and Variances

§150.120.1	Appeals to the Board of Zoning Appeals	§150.120.7	Decision of the BZA (Appeals or Variances)
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§150.120.3	Public Hearing by BZA (Appeals or Variances)	§150.120.9	Record of Appeals or Variances
§150.120.4	Notice of Public Hearing (Appeals or Variances)	§150.120.10	Variances by the Board of Zoning Appeals
§150.120.5	Stay of Proceedings (Appeals)	§150.120.11	Finality of Decisions on Appeals and Variances
		§150.120.12	Minor Variances by the Zoning Administrator

150.120.1 Appeals to the Board of Zoning Appeals

(A) An appeal from a decision of the Zoning Administrator with respect to the interpretation or application of this Zoning Code, except for decisions regarding site design plans, may be taken to the Board of Zoning Appeals (BZA) by any person aggrieved, or by any officer, department, board, bureau, or any governmental agency or body affected by the decision of the Zoning Administrator.

(B) An appeal from a decision of the Landmarks Commission may be taken to the Board of Zoning Appeals pursuant to sub-section 150.345.21, Appeal of Landmarks Commission Decision, of this Zoning Code. (Ord. 30515-05, passed 12-28-05)

150.120.2 Initiation of Appeals and Variances

(A) Appeals to the BZA shall be filed within 30 days from the decision of the Zoning Administrator by filing a written notice of appeal with the Secretary of the Board of Zoning Appeals. The notice of appeal shall specify the grounds for such appeal. Upon receipt of a notice of appeal, the Secretary of the Board of Zoning Appeals shall forthwith transmit to the BZA all of the papers constituting the record upon which the decisions being appealed were based.

(B) Variances shall be initiated as per Section 150.120.10. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09)

150.120.3 Public Hearing by the BZA (Appeals or Variances)

Except as described in Section 150.120.10, when an application for appeal or variance has been filed in proper form and the application fee has been paid, the Secretary of the Board of Zoning Appeals shall immediately place the request upon the calendar for public hearing before the Board of Zoning Appeals. Except as described in Section 150.120.10, the Board of Zoning Appeals shall hold such public hearing within sixty (60) days after the receipt of an application for an appeal or variance from the Zoning Administrator or applicant, unless the applicant agrees to a later date for the public hearing. The BZA may recess such hearings from time to time, and, if the time and place of the continued hearing is publicly announced at the time of the adjournment, no further notice shall be required. Any person in interest may

appear at the public hearing in person, by agent, or by attorney. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09; amend Ord. 31426-15, passed 7-29-15)

150.120.4 Notice of Public Hearing (Appeals or Variances)

The Board of Zoning Appeals shall provide notice of public hearings pursuant to the following:

(A) The BZA shall select a reasonable time and place for hearing of an appeal or variance.

(B) Written notice of the hearing shall be sent at least fourteen (14) days prior to the hearing by first class mail to the owners of the property within 250 feet of the applicant's property.

(C) The notice of such hearing shall state the time, place, date, and subject of the hearing.

(D) Failure of delivery of such notices shall not invalidate action taken on such application. (Ord. 30515-05, passed 12-28-05)

150.120.5 Stay of Proceedings (Appeals)

An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the BZA, after the 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. (Ord. 30515-05, passed 12-28-05)

150.120.6 Review by the BZA (Appeals or Variances)

The Board of Zoning Appeals shall review the appeal or variance. The BZA may call upon City Departments and professional consultants in performance of its duties. Such City Departments or consultants shall render such assistance to the BZA as may reasonably be required. (Ord. 30515-05, passed 12-28-05)

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 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. (Ord. 30515-05, passed 12-28-05; amend Ord. 31490-16, passed 5-04-16)

150.120.8 Reapplication of Appeal or Variance

If the appeal or variance is denied by the Board of Zoning Appeals, the BZA shall not rehear the application unless new evidence will be submitted which could not have been submitted at the time of the original application, as determined by the Secretary of the Board of Zoning Appeals. (Ord. 30515-05, passed 12-28-05)

150.120.9 Record of Appeals or Variances

The Secretary of the Board of Zoning Appeals shall maintain complete records of all actions of the BZA with respect to appeals and variances, and the Secretary shall keep the City Commission informed on a current basis of the disposition of each case. (Ord. 30515-05, passed 12-28-05)

150.120.10 Variances by the Board of Zoning Appeals

The Board of Zoning Appeals may authorize variances from the terms of this Zoning Code only when the BZA has made findings of fact, based upon the standards set out in sub-section 150.120.10(D), Standards for Variance.

(A) Application. An application for a variance may be obtained in the Department of Planning and Community Development. The applicant shall file an application for a variance with the Secretary of the Board of Zoning Appeals or his designated agent. The applicant shall provide all information requested on the application as well as the application fee, as set forth in the schedule of fees adopted by the City Commission.

(1) Application for Variance to Increase Established Total Maximum Daily Inventory (TMDI). An application for a variance to increase established TMDI within the Water Protection Overlay (WP) District may be obtained in the Department of Planning and Community Development. The applicant shall file an application for a variance with the Secretary of the Board of Zoning Appeals or his designated agent. The applicant shall provide all information requested on the application as well as the application fee, as set forth in the schedule of fees adopted by the City Commission. The Secretary of the BZA or his designee may require a pre-application meeting with the applicant prior to receiving the application. However, no opinions, suggestions, or recommendations discussed may be relied upon by the applicant as a guarantee of subsequent approval or disapproval of the application.

Within five (5) days of receiving an application in the proper form and payment of the application fee, the Secretary of the BZA shall provide copies of the application to the Director of Water, the Director/Chief of Fire, and the Zoning Administrator.

The BZA shall hold a public hearing within sixty (60) days of receiving the completed application, unless the applicant agrees to a later date for the public hearing. The BZA may recess such hearings from time to time, and, if the time and place of the continued hearing is publicly announced at the time of the adjournment, no further notice shall be required. Any person in interest may appear at the public hearing in person, by agent, or by attorney.

In addition to the requirements found in Section 150.120.4, written notice of such BZA hearing shall be sent at least fourteen (14) days prior to the hearing by first class mail to the chair of the Northeast Priority Land Use Board, the chair of the Environmental Advisory Board, and to Montgomery County, Huber Heights, Vandalia, Harrison Township, Riverside, Public Health Dayton and Montgomery County, and Wright Patterson Air Force Base. The notice of such hearing shall state the time, place, date, and subject of the hearing. Failure of delivery of such notices shall not invalidate action taken on such application.

(B) Review for Completeness. Upon receipt of a written request for a variance, the Secretary of the Board of Zoning Appeals shall make a preliminary determination whether such application provides the information necessary for review and evaluation. If it is determined that such application does not provide the information necessary for such review and evaluation, the Secretary of the Board of Zoning Appeals shall within ten (10) days so advise the applicant of the deficiencies and shall not further process the application until the deficiencies are corrected.

(C) Review by the BZA. According to the procedures established for appeals in sub-sections 152.120.3 through 150.120.9, the BZA shall hold a public hearing and give notice of the same.

(D) Standards for Variance. The BZA shall not grant a variance unless it shall, in each case, make specific findings of fact directly based upon the particular evidence presented to it from the factors below.

(1) Variances Based on Practical Difficulty. The BZA shall consider and weigh the following factors in determining practical difficulty:

(a) Whether special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same Zoning District; examples of such special conditions or circumstances are: exceptional irregularity, narrowness, shallowness or steepness of the lot, or adjacency to nonconforming and inharmonious uses, structures or conditions;

(b) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;

(c) Whether the variance is substantial and is the minimum necessary to make possible the reasonable use of the land or structures;

(d) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance;

(e) Whether the variance would adversely affect the delivery of governmental services such as water, sewer, or trash pickup;

(f) Whether the property owner purchased the property with knowledge of the zoning restrictions;

(g) Whether special conditions or circumstances exist as a result of actions of the owner;

(h) Whether the property owner's predicament feasibly can be obviated through some method other than a variance;

(i) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting a variance; and

(j) Whether the granting of the variance requested will confer on the applicant any special privilege that is denied by this regulation to other lands, structures or buildings in the same district.

(2) Use Variances. In order to grant a use variance, the BZA shall determine that strict compliance with the terms of this Code will result in an unnecessary hardship to the applicant. The applicant must demonstrate such a hardship by clear and convincing evidence that all of the criteria in Sub-section (a) are satisfied. The applicant may further demonstrate hardship by the use of the criteria in Sub-section (b).

(a) The applicant shall demonstrate hardship with the following:

(i) The variance requested stems from a condition that is unique to the property at issue and not ordinarily found in the same zone or district;

(ii) The granting of the variance will not have any material adverse affect on the rights of adjacent property owners or residents;

(iii) The granting of the variance will not have any material adverse affect on the public health, safety or general welfare;

(iv) The variance will be consistent with the general spirit and intent of the Zoning Code; and

(v) The variance sought is the minimum that will afford relief to the applicant.

(b) The applicant may submit evidence and the BZA may also consider:

(i) Whether the property cannot be put to any economically viable use under any of the permitted uses in the zoning district in which the property is located; and

(ii) Whether, and the extent to which (if applicable), the hardship condition is not created by the actions of the applicant.

(3) Variances to Increase Established Total Maximum Daily Inventory (TMDI). Variances to increase established TMDI and/or the established Facility Hazard Potential Rating (FHPR) within the Well Head Operation (WO) District and/or the Miami Well Field shall be prohibited. Variances to increase TMDI in connection with a prohibited use as enumerated in Section 150.363.2 (E) or a use explicitly prohibited in the definition of Manufacturing, heavy shall be prohibited. No variance to increase established TMDI within the WP Overlay District shall be granted unless the BZA determines that the variance will not pose a significant risk to the contamination of groundwater. In order to obtain such a variance, the applicant must prove all of the following by clear and convincing evidence:

(a) The granting of the variance will not adversely affect the City's well fields or the ability of government water services to be safely delivered and thereby adversely affect the public health, safety or general welfare;

(b) Risk to the Source Water Protection Area posed by the requested variance is negated through proper engineering controls and a Spill Prevention and Response Plan;

(c) The granting of the variance will not adversely affect the rights of adjacent property owners or residents;

(d) The variance will be consistent with the general spirit and intent of the Zoning Code and the Source Water Protection Program; and

(e) The variance sought is the minimum that will afford relief to the applicant.

(E) Risk Screening. For a variance request to increase Total Maximum Daily Inventory (TMDI) and/or Facility Hazard Potential Rating (FHPR), the Department of Water shall

evaluate the request using its risk screening methodology. The results of the screening will be presented to the BZA to use in reviewing and evaluating the request for a variance.

(F) Requests for Additional Information. The Board of Zoning Appeals may request that the applicant supply additional information that the BZA deems necessary to review and evaluate the request for a variance.

(G) Supplemental Conditions and Safeguards. The BZA may further prescribe any conditions and safeguards that it deems necessary to insure that the objectives of the regulations or provisions to which the variance applies will be met. Any violation of such conditions and safeguards, when they have been made a part of the terms under which the variance has been granted, shall be deemed a punishable violation of this Zoning Code.

(H) Action by the BZA. The BZA shall approve, approve with supplementary conditions as specified in sub-section 150.120.10(G) above, or disapprove the request for a variance according to the procedures established for appeals in sub-sections 150.120.1 through 150.120.9 within 30 days from the close of the hearing.

(I) Term and Extension of Variance. Variances, except those to increase established TMDI, shall expire one (1) year from the date of their being granted unless, prior thereto, the applicant commences actual construction in accordance with the granted variance or an extension of time has been granted by the Board of Zoning Appeals. There shall be no modification of variances except by further action of the BZA. Once the time limit pursuant to this sub-section has expired, a request for a variance shall be considered to be a new application for a variance and shall meet all requirements for application and review pursuant to this Section.

(1) Variances to Increase Established TMDI. Any increase in TMDI shall not be effective until an occupancy certificate has been issued by the Zoning Administrator. An occupancy certificate for an increase in TMDI shall not be issued unless all conditions imposed by the Board of Appeals as a condition of approval have been met to the satisfaction of the Zoning Administrator, Director of Water, and Director/Chief of Fire.

If an occupancy certificate is not issued within 12 months of the decision by the Board of Zoning Appeals, the variance to increase TMDI shall expire unless an extension of time has been granted by the BZA. There shall be no modification of variances to increase TMDI except by further action of the BZA.

Once the time limit pursuant to sub-section (I)(1) has expired, a request for a variance to increase TMDI shall be considered to be a new application for a variance and shall meet all requirements for application and review pursuant to this Section. (Ord. 30515-05, passed 12-28-05; amend Ord. 31142-11, passed 12-21-11; amend Ord. 31426-15, passed 7-29-15; amend Ord. 31574-17, passed 7-05-17)

150.120.11 Finality of Decisions on Appeals and Variances

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 following the date

the written decision by the Board of Zoning Appeals is issued. 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; amend Ord. 31490-16, passed 5-04-16; amend Ord. 31752-19, passed 9-4-19)

150.120.12 Minor Variances by the Zoning Administrator

(A) The Zoning Administrator may administratively grant Minor Variances, without a hearing, for detached single family and two family dwellings, and for those general categories in sub-section 150.120.12 (B), where the Zoning Administrator finds the existence of all of the following:

(1) That the particular physical surroundings, shape, or topographical condition of the specific property involved would result in a practical difficulty or unnecessary hardship upon or for the owner, lessee, or occupant as distinguished from a mere inconvenience, if the provisions of this Zoning Code were literally enforced;

(2) That the requested modification is not based exclusively upon a desire of the owner, lessee, occupant, or applicant to realize economic gain;

(3) That the granting of a Minor Variance shall not be materially detrimental or injurious to other property or improvements in the neighborhood in which the subject property is located; and,

(4) That the proposed deviation will not impair an adequate supply of light or air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety or substantially diminish or impair property values within the neighborhood.

(B) General categories. The Zoning Administrator's ability to grant minor variances shall extend to the following general categories:

(1) Maximum lot coverage;

(2) Lot area;

(3) Surface parking; and,

(4) Setbacks.

(C) With regard to maximum lot coverage, lot area, surface parking, and setbacks, the Zoning Administrator may grant a minor variance when:

(1) With respect to failures to comply with the appropriate side and rear setback requirements that:

(a) Proposed structures will encroach into the required setback a distance not greater than 25% of the width or depth of such required setback; or

(b) Proposed extensions of lawfully existing structures which are already located within required setbacks where the pattern of development was established

prior to this Zoning Code, will not encroach any further into such required setback; or

(c) Except in the MR-5 District, proposed extensions of unenclosed covered porches, handicap ramps, and patios will encroach into the required setback a distance not greater than 25% of the width or depth of such setback.

(2) With respect to front setback requirements that:

(a) A recent street improvement has been made in the immediate vicinity which suggests additional street improvements may be a number of years away, or

(b) Any future street improvement requirements can be accomplished within the existing right-of-way, or

(c) Adjacent structures of substantial investment are in place thereby making it unlikely that future widenings would take place, or

(d) Structural improvements are of a minor investment and the owner agrees to sign a waiver requiring him to remove the improvements at the owner's expense in the event the City does make thoroughfare improvements.

(3) With respect to lot coverage requirements that the proposed deviation will not vary more than 10% from the permitted lot coverage requirement.

(4) With respect to off-street parking requirements that:

(a) For any change of permitted use in a densely developed commercial, transitional or industrial district where no reasonable alternative exists for providing the parking spaces required of the new use; the same number of spaces provided by the previous use may be permitted provided the intensity of the new use is no greater than the previous use. The Zoning Administrator shall use the standards in sub-section 150.140.4(D) to determine if the intensity of the new use is greater than the previous use.

(b) For all other parking requirements the proposed deviation shall not vary more than 2 spaces or 15% of the required number of spaces, whichever is greater.

(5) With respect to lot area requirement for new construction, that the proposed deviation is no more than 10% of the required lot area.

(D) The Zoning Administrator may administratively grant Minor Variances, without a hearing, for the following general categories in order to allow new dwellings to accommodate the needs of the physically disabled:

(1) Maximum lot coverage;

(2) Lot area;

(3) Surface parking;

(4) Setbacks;

(5) Elevations;

(6) Stoops and Porches; and

(7) Building or structure height.

(E) With respect to (D) above, the Zoning Administrator may grant a Minor Variance where the Zoning Administrator finds the existence of (1) through (7) below. When evaluating (1) through (5) in terms of accessibility, the Zoning Administrator shall consult all applicable city, county, state and federal codes.

(1) The dwelling has at least one entrance on an accessible route;

(2) On the floor of the dwelling with the accessible entrance, all doors into and on that floor are a minimum of 32 inches wide to provide sufficient space for wheelchair or walker width and allow ample hand clearance;

(3) On the floor of the dwelling with the accessible entrance, hallways are a minimum of 36 inches wide, and in hallways where turning around is required, a five-foot radius of clear space is provided;

(4) On the floor of the dwelling with the accessible entrance, a bedroom is provided;

(5) On the floor of the dwelling with the accessible entrance, an accessible bathroom is provided;

(6) The granting of a Minor Variance shall not be materially detrimental or injurious to other property or improvements in the neighborhood in which the subject property is located; and,

(7) The proposed deviation will not impair an adequate supply of light or air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety or substantially diminish or impair property values within the neighborhood.

(F) The Zoning Administrator may administratively grant a Minor Variance, without a hearing, to the definition of “Family” for a “Supported Family Living Home” as defined by this Zoning Code. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09; amend Ord. 31283-13, passed 12-18-13)

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Section 150.125
Amendments

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§150.125.13 Finality of Decisions

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)

150.125.2 Amendment Procedures

Amendments to this Zoning Code may be initiated in one of the following ways:

(A) By the filing of application by all owners or lessees of property or developers with an option on such property within the area proposed to be changed by said amendment. If the applicant is not the property owner, the property owner shall sign the application.

(B) By the adoption of a motion by the City Plan Board.

(C) By the adoption of a motion by City Commission. (Ord. 30515-05, passed 12-28-05)

150.125.3 Amendments Initiated by Property Owner(s)

(A) All owners or lessees of property or developers with an option on property in the City who propose an amendment to any of the regulations imposed by this Zoning Code or to the zoning classification of any property, shall file an application for such amendment with the Secretary of the Plan Board or his/her designated agent. Before submitting an application for amendment, the applicant may informally consult with the Department of Planning and Community Development staff with respect to the proposed amendment. However, no statement or representation by any staff member shall be binding on the Plan Board, the City Commission or any other city official.

(B) Submission Requirements. An application form for a zoning amendment may be obtained in the Department of Planning and Community Development. The application for amendments to both the Zoning Code text and the Zoning Map shall be in such form and contain such information as shall be prescribed from time to time by the Director of the Department of Planning and Community Development. Submission of the

application shall also include the application fee, as set forth in the schedule of fees adopted by the City Commission.

(C) Review for Completeness. The Secretary of the Plan Board or designee shall review the submitted application for completeness and compliance with the applicable submission requirements within ten (10) days of receipt of such application. If the application is deemed insufficient, the Secretary or designee shall notify the applicant of the deficiencies and place the application on hold until complete. When the application is determined complete and the application fee has been paid, the Secretary or designee shall officially accept the application for consideration.

(D) Transmittal to the Plan Board. After the filing of a completed application by an owner, lessee of property or developer with an option on such property, the Secretary shall transmit the application to the Plan Board to begin the adoption process set forth in sub-sections 150.125.4 through 150.125.11. (Ord. 30515-05, passed 12-28-05)

150.125.4 Amendments Initiated by Plan Board or City Commission

Plan Board and City Commission shall review and consider motions passed by either the Plan Board or the City Commission according to the process set forth in sub-sections 150.125.4 through 150.125.11. Plan Board shall review amendments initiated by the City Commission before final action by the City Commission. (Ord. 30515-05, passed 12-28-05)

150.125.5 Public Hearing and Notice by Plan Board

The Public Hearing and notice by the Plan Board shall be conducted as follows:

(A) Before submitting the report required by sub-section 150.125.8 (E) of this Section, the Plan Board shall afford the applicant the opportunity to appear before the Board either in person or through a duly authorized agent or attorney in support of the proposed amendment. The Plan Board may hold a Public Hearing if it determines that such a hearing is necessary and appropriate in order to properly evaluate the proposed amendment as provided for in sub-sections 150.125.6 and 150.125.7 and to arrive at recommendations with respect to the approval or disapproval of the amendment.

(B) Upon the receipt of an application or resolution or upon the passage of a motion, the Plan Board shall set a date for a public hearing thereon if the determination is made that a public hearing is necessary. Notice of the Public Hearing shall comply with the following:

(1) If the proposed amendment intends to rezone or redistrict an area of 10 or less parcels of land as listed on the tax duplicate, notice of the hearing shall be mailed by first class mail, at least 20 days before the date of the Public Hearing to owners of property within and contiguous to and directly across the street or alley from such parcel or parcels, to the tax-mailing addresses of such owners appearing on the County Auditor's current list or the County Treasurer's mailing list. In addition, written notice of the hearing shall be sent by first class mail at least twenty (20) days before the hearing to the owners of record of parcels located within 250 feet of the subject property, as they appear on the Tax Duplicate. The failure of delivery of such notice shall not invalidate any proceedings or legislation.

(2) If the proposed amendment involves designation of a Historic District or the adoption of City of Dayton zoning for an annexed area, for ten (10) or less parcels, notice of the hearing shall be mailed by first class mail, at least twenty (20) days before the date of the public hearing to owners of property within and contiguous to and directly across the street or alley from such parcel or parcels, to the tax mailing addresses of such owners appearing on the County Auditor's current tax list or the County Treasurer's mailing list. The failure of delivery of such notice shall not invalidate any proceedings or legislation.

(3) The Plan Board may recess Public Hearings from time to time, and, if the time and place of the continued hearing is publicly announced at the time of the adjournment, no further notice shall be required. (Ord. 30515-05, passed 12-28-05)

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.

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

(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. (Ord. 30515-05, passed 12-28-05)

150.125.7 Amendments to Change Zoning Districts or Zoning Classifications of Properties

(A) When a proposed amendment would result in a change of zoning classification of any property, the Plan Board and City Commission should consider whether:

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

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

(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.

(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.

(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) 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.

(7) 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.

(8) The proposed amendment would correct an error in the application of this Zoning Code as applied to the subject property. (Ord. 30515-05, passed 12-28-05)

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.

(B) The Plan Board may recommend that special conditions, requirements or a Planned Development overlay on the uses, buildings, and structures be attached by the City Commission to the granting of any amendment.

(C) If the Plan Board does not make a recommendation on the proposed amendment within the sixty (60) days, or an extended period as may be agreed upon by the applicant or City Commission it shall be deemed that the recommendation of the Plan Board is that the amendment be denied.

(D) If the Plan Board recommends disapproval of the proposed amendment, the applicant may, within twenty (20) days following the date the Plan Board's written recommendation is issued, notify the Secretary to the City Plan Board and Clerk of the City Commission in writing, that the applicant desires a public hearing before the City Commission. If such notice is received within this time, the Clerk of the City Commission shall proceed to schedule a public hearing on the amendment in accordance with 150.125.9, Public Hearing and Notice by the City Commission. If such notice is not received within this time, the applicant shall be deemed to have withdrawn the proposed amendment, and no further action will be taken.

(E) The Secretary of the Plan Board shall file with the Clerk of the City Commission a report of the Plan Board's action. A copy of the report shall be kept available for public inspection and a copy of the report shall also be furnished to the party who proposed the amendment. Such report shall contain a statement as to whether the Plan Board

recommends approval or disapproval of the proposed amendment. The report may also contain the Plan Board's specific suggestions and other relevant information considered by the Plan Board. (Ord. 30515-05, passed 12-28-05; amend Ord. 30762-08, passed 7-16-08; amend Ord. 31752-19, passed 9-4-19)

150.125.9 Public Hearing and Notice by City Commission

The Public Hearing and notice by the City Commission shall be conducted as follows:

(A) Upon receipt of the recommendation from the Plan Board if the applicant has not withdrawn the proposed amendment, the Commission shall schedule a public hearing.

(B) Public notice of a hearing on a proposed amendment shall be published in a newspaper of general circulation in the city not less than thirty (30) days prior to the date of such hearing. Such notice shall state the date, time, and place of the hearing, as well as a brief description of the proposed amendment and property affected by such amendment.

(C) During the thirty (30) day notice period, a copy of the text of the proposed amendment together with such maps which are a part of or referred to in the text of the proposed amendment, together with the report of the Plan Board, shall be on file for public examination in the office of the Clerk of the Commission and also with the Secretary to the Plan Board.

(D) If the proposed amendment intends to rezone or redistrict an area of ten (10) or less parcels of land as listed on the tax duplicate, notice of the hearing shall be mailed by first class mail, at least twenty (20) days before the date of the public hearing to owners of property within and contiguous to and directly across the street from such parcel or parcels, to the tax-mailing addresses of such owners appearing on the County Auditor's current list or the County Treasurer's mailing list. In addition, written notice of the hearing shall be sent by first class mail at least twenty (20) days before the hearing to the owners of record of parcels located within 250 feet of the subject property. The failure of delivery of such notice shall not invalidate any subsequent proceedings or legislation.

(E) If the proposed amendment involves designation of a Historic District or the adoption of City of Dayton zoning for an annexed area, for 10 or less parcels, notice of the hearing shall be mailed by first class mail, at least twenty (20) days before the date of the public hearing to owners of record of the affected property, and contiguous to and directly across the street from such parcel or parcels, to the tax-mailing addresses of such owners appearing on the County Auditor's current tax list or the County Treasure's mailing list. The failure of delivery of such notice shall not invalidate any subsequent proceedings or legislation.

(F) If the proposed amendment intends to rezone or redistrict an area of more than ten (10) parcels of land as listed on the tax duplicate, written notice of the hearing shall be given to at least one (1) newspaper of general circulation in the City. The notice shall be published at least thirty (30) days before the date of the public hearing. The notice shall include the time and place of the public hearing, a summary of the proposed amendment and a statement that the opportunity to be heard will be afforded to any person interested. (Ord. 30515-05, passed 12-28-05)

150.125.10 Conduct of Hearing

The hearing shall be conducted and a record of the proceedings shall be preserved in such manner and according to such procedures as the City Commission may, from time to time, prescribe. Any interested

person or party may appear and be heard at the hearing in person, by agent, or by attorney. (Ord. 30515-05, passed 12-28-05)

150.125.11 Final Action by City Commission

(A) Following such hearing, after reviewing the recommendations of the Plan Board thereon and considering sub-sections 150.125.6 and 150.125.7, the City Commission shall consider such recommendations and take action on the proposed amendment as follows:

(1) An ordinance that is consistent with the report and recommendation submitted by the Plan Board on the proposed amendment may be passed by a majority of the City Commission.

(2) An ordinance on a proposed amendment may be passed as an emergency measure for the immediate preservation of the public peace, property, health and safety.

(3) No ordinance that violates, differs from, or departs from the advertised proposed amendment shall take effect without additional proceedings as provided in sub-sections 150.125.2 through 150.125.9.

(4) No ordinance that violates, differs from or departs from the latest report and recommendation submitted by the City Plan Board shall take effect unless at least four members of the City Commission vote to pass the proposed amendment.

(5) A majority of the City Commission may approve a motion to remand the proposed amendment to the Plan Board for additional consideration. The remanded proposed amendment shall be treated as a new application subject to the proceedings as provided in sub-sections 150.125.2 through 150.125.9.

(B) If the City Commission determines to grant an amendment subject to conditions, requirements or Planned Development, the City Commission may, before enacting such amendment, require a bond, covenant, or other adequate assurance from the applicant to insure a compliance with such special conditions, requirements or Planned Development as may be recommended by the Plan Board.

(C) If a proposed amendment is not adopted by the City Commission within sixty (60) days after the latest report of the Plan Board is submitted, such proposed amendment shall be deemed to have been defeated and denied and shall not thereafter be passed without additional proceedings as provided in sub-sections 150.125.2 through 150.125.9. (Ord. 30515-05, passed 12-28-05; amend Ord. 30762-08, passed 7-16-08; amend Ord. 31738-19, passed 5-29-19)

150.125.12 Reapplication of an Amendment

If the amendment is withdrawn by the applicant or denied by the City Commission, the Plan Board shall not rehear the application for a period of one year unless new evidence will be submitted which could not have been submitted at the time of the original application, as determined by the Secretary to the Plan Board. (amend Ord. 30893-09, passed 7-15-09)

150.125.13 Finality of Decisions

A decision by the City Commission granting or denying approval of an amendment, or remanding an amendment to the Plan Board, 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 following the date of the

meeting at which the City Commission made its decision. (amend Ord. 30893-09, passed 7-15-09; amend Ord. 31752-19, passed 9-4-19)

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Section 150.130
Fees, Penalties and Enforcement

§150.130.1 Violation of the Zoning Code
§150.130.2 Zoning Code Complaints
§150.130.3 Enforcement
§150.130.4 Election of Remedies
§150.130.5 Notice of Violation
§150.130.6 Misdemeanor Offenses
§150.130.7 Minor Misdemeanor Citation
§150.130.8 Stop Work Order
§150.130.9 Civil Penalties
§150.130.10 Fees

150.130.1 Violation of the Zoning Code

No person shall erect, construct, alter, repair, or maintain any building, structure, or sign, or use any land in violation of any requirement or condition of this Zoning Code including, but not limited to, the following:

(A) Use or occupy any land or place; build, erect, alter, remodel, restore, or rebuild thereon any building or structure; permit any building or structure to remain on such land; or use, occupy, or operate such building or structure for any use or purpose which is not permitted by the provisions of this Zoning Code; or

(B) Use or occupy any parcel of land; use or occupy a new building; or enlarge, substitute or otherwise change the use, occupancy, or configuration of any land or building, without having received, or in violation of the terms of, a zoning certificate, conditional use certificate, or occupancy certificate issued by the Zoning Administrator; or

(C) Aid, assist, or participate with any person in placing, building, erecting, altering, remodeling, restoring, or rebuilding any building or structure which is not permitted by the provisions of this Zoning Code; or

(D) Violate or fail to perform any condition, stipulation or safeguard set forth in any certificate issued pursuant to this Zoning Code, or continue to use or occupy the premises or building as previously authorized by such certificate beyond the duration limit therein stated; or

(E) Continue construction, renovation, or improvements contrary to a stop work order or notice of violation; or

(F) Refuse to permit the Zoning Administrator to lawfully enter any premises in the City to investigate a reported violation of the provisions of this Zoning Code, or refuse or fail to furnish to the Zoning Administrator a statement as to the number of persons occupying such premises; or

(G) Knowingly make any materially false statement of fact in an application to the Zoning Administrator for a zoning certificate, conditional use certificate, site design plan, or occupancy certificate or in the plans or specifications submitted to the Zoning Administrator in relation to such application. (Ord. 30515-05, passed 12-28-05; amend Ord. 30594-06, passed 8-23-06)

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 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 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.

(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. (Ord. 30515-05, passed 12-28-05; amend Ord. 30594-06, passed 8-23-06; amend Ord. 31490-16, passed 5-04-16)

150.130.4 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)

150.130.5 Notice 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 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.

(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 certified mail to the last known address of the person served and receiving a return receipt showing delivery of the mailing; or

(4) 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)

150.130.6 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 150.130.8 of this Zoning Code, is guilty of a misdemeanor of the first degree.

(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 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 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)

150.130.7 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 state, 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; 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 Stop Work Order

The Zoning Administrator 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)

150.130.9 Civil Penalties

(A) Subject to Section 150.130.4, 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.

(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 and Community Development within ten (10) days of the written notice of assessment.

(C) The Director of Planning and Community 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 and Community Development is final, subject to judicial review.

(D) Upon passage of any applicable appeal time, the Director of Planning and Community 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)

150.130.10 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)

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Section 150.135
Certificates

§150.135.1 Zoning Certificate

§150.135.2 Application for Zoning Certificate

§150.135.3 Zoning Certificate for Individually Developed Single and Two-Family Dwellings or Use Accessory Thereto

§150.135.4 Zoning Certificate for Uses Required to Submit a Site Design Plan Pursuant to Section 150.115

§150.135.5 Period of Validity

§150.135.6 Occupancy Certificates

§150.135.7 Application for Occupancy Certificates

§150.135.8 Issuance of Occupancy Certificates

150.135.1 Zoning Certificate

The construction, building, moving, remodeling, or reconstruction of any building or structure shall not be commenced; the improvement of land preliminary to any use of such land shall not be commenced; the use of land, buildings or structures for temporary and accessory uses shall not be commenced; and permits pertaining to the temporary or permanent use of land, buildings, or structures shall not be issued by any official, officer, employee, department, board, or bureau of the city unless a zoning certificate shall first have been obtained from the Zoning Administrator. (Ord. 30515-05, passed 12-28-05)

150.135.2 Application for Zoning Certificate

Every application for a zoning certificate shall be deemed to be also an application for an occupancy certificate if an occupancy certificate is required. (Ord. 30515-05, passed 12-28-05)

150.135.3 Zoning Certificate for a Individually Developed Single-family and Two-family Dwellings or Use Accessory Thereto

(A) Submission of Applications. An application for a zoning certificate for the construction or alteration of a single-family or two-family dwelling or use accessory thereto shall include the items set forth below.

(1) The completed application form, along with the application fee as established by City Commission.

(2) Three (3) copies of a general vicinity map.

(3) Three (3) copies of a plot plan showing the following. Such plans shall be legibly drawn to readable scale and shall be based on an accurate survey.

(a) North arrow.

(b) Property boundary lines and the exact dimensions and area of the lot to be built upon or utilized.

(c) Right-of-way of adjacent streets and alleys.

(d) Location, dimensions, height, and bulk of all structures to be erected or altered.

(e) The existing and intended use(s) of all land, buildings and structures.

(f) Dimensions of yards, driveways and parking areas.

(g) Location and use of buildings and adjoining lots within 10 feet of all surrounding or bounding property lines.

(h) Location and dimension of any easements and use of the easement.

(i) Existing and proposed driveways, water mains, valve boxes, fire hydrants, sanitary sewers, storm sewers, manholes, retention/detention basins, gas mains, electric power and telephone/communication facilities, and other related above and below grade structures.

(j) Any other pertinent data as may be necessary to determine and provide for the administration and enforcement of this Zoning Code.

(B) Review for Completeness. Within five (5) days after receiving an application, the Zoning Administrator shall review the submitted application to determine compliance with the applicable submission requirements. If the application is deemed insufficient, the Zoning Administrator shall notify the applicant of necessary changes or additional information needed. When the application is deemed complete and the application fee has been paid, the Zoning Administrator shall officially accept the application for consideration of the action(s) requested on the date such determination is made.

(C) Action by Zoning Administrator. The Zoning Administrator shall evaluate the application and approve or deny it within 30 days from the date it was determined to be complete. In evaluating the application, the Zoning Administrator may consult with any department, agency, public body, official, company, or individual necessary to determine whether the application complies with the regulations of this Zoning Code.

(1) Approval. The Zoning Administrator shall issue a zoning certificate upon finding that the building, structure and/or use, as proposed, complies with the provisions of this Zoning Code.

(2) Denial. If it is determined by the Zoning Administrator that the proposed building, structure or use would violate one or more provisions of this

Zoning Code, then the zoning certificate shall not be issued. The Zoning Administrator shall state on the application or in writing the reason for the denial, including the regulation(s) which would be violated by the proposed use, and shall transmit one copy thereof to the applicant.

If no zoning certificate is issued within 184 days after the application is denied, the filing shall be deemed expired and reapplication necessary. Reapplication shall be made in accordance with Section 150.135, and applicable fees paid. One or more extensions of time for periods not to exceed 90 days each shall be permitted by the Zoning Administrator provided the extension is requested in writing and justifiable cause is demonstrated. (Ord. 30515-05, passed 12-28-05; amend Ord. 30762-08, Passed 7-16-08)

150.135.4 Zoning Certificate for Uses Required to Submit a Site Design Plan Pursuant to Section 150.115

Zoning certificates for those uses and developments required by sub-section 150.115.2, Developments and Uses Requiring a Site Design Plan, to submit a site design plan shall be issued a zoning certificate pursuant to sub-section 150.115.7, (D) (3), Issuance of Zoning Certificate. (Ord. 30762-08, passed 7-16-08)

150.135.5 Period of Validity

A zoning certificate shall remain valid for a period of twelve (12) months following the date of its approval, unless the Zoning Administrator authorizes an extension. If, at the end of that time, construction has not begun, a new application and certificate shall be required. Construction is deemed to have begun when all necessary excavation and piers or footings of one or more principal buildings included in the plan have been completed. (Ord. 30515-05, passed 12-28-05; amend Ord. 30762-08, passed 7-16-08)

150.135.6 Occupancy Certificates

No building, structure, or addition thereto constructed, built, moved, remodeled, or reconstructed after the effective date of this Zoning Code shall be occupied or used for any purpose; and no land vacant on that date shall be used for any purpose; and no use of any land, building, or structure shall be changed to any other use unless an occupancy certificate shall first have been obtained from the Zoning Administrator certifying that the proposed use or occupancy complies with all the provisions of this Zoning Code. (Ord. 30515-05, passed 12-28-05 amend Ord. 30762-08, passed 7-16-08)

150.135.7 Application for Occupancy Certificates

Every application for a zoning certificate shall be deemed to be an application for an occupancy certificate also. Every application for an occupancy certificate for a new or changed use of land, building, increase in TMDI, or structures where no zoning certificate is required shall be filed with the Zoning Administrator and be in such form and contain such information as the Zoning Administrator may require. (Ord. 30515-05, passed 12-28-05 amend Ord. 30762-08, passed 7-16-08; amend Ord. 31426-15, passed 7-29-15)

150.135.8 Issuance of Occupancy Certificates

(A) Occupancy Certificate for Structures. No occupancy certificate for a building or structure or addition thereto, constructed, built, moved, remodeled, or reconstructed after the effective date of this Zoning Code or any other occupancy certificate required by this Zoning Code, shall be issued until such work has been completed and the premises inspected and certified by the Zoning Administrator to be in full and complete compliance with the plans and specifications upon which the zoning certificate for the property was issued. The aforesaid notwithstanding, the Zoning Administrator may issue a temporary occupancy certificate if completion of the improvement is guaranteed by a performance bond from a financial institution approved by the Director of Law of sufficient amount to cover the estimated cost of materials and labor has been posted. Such improvements include, but shall not be limited to the following:

(1) Final grading;

(2) Paving of streets and access drives, curbing, sidewalks, etc.;

(3) Landscaping and screening;

(4) Traffic and directional signage; and,

(5) Light fixtures.

(B) Occupancy Certificate for a New Use. No occupancy certificate for a new use of any building, structure or land shall be issued until the premises have been inspected and certified by the Zoning Administrator to be in full and complete compliance with all the applicable regulations for the zoning district in which it is located. However, the Zoning Administrator may issue an occupancy certificate to an applicant who has not, or whose predecessor or predecessors in interest has not obtained an occupancy certificate for a change in use of any land, building, or structure as required by law at the time such change in use occurred, provided the Zoning Administrator determines that such applicant, or his predecessor or predecessors in interest, would have been entitled to the issuance of an occupancy certificate if the application then required by law would have been made.

Occupancy Certificate for an Increase in the Total Maximum Daily Inventory (TMDI) of a Zoning Lot. An occupancy certificate for an increase in TMDI shall not be issued unless the premises have been inspected and certified by the Zoning Administrator, Department of Water and the Director/Chief of Fire to be in full and complete compliance with all conditions imposed by the BZA and/or the Zoning Administrator as well as with all applicable regulations for the applicable zoning district.

(C) Temporary Occupancy Certificate. Pending the issuance of a permanent occupancy certificate, a temporary occupancy certificate may be issued to be valid for a period not to exceed 6 months from its date, pending the completion of any addition or during partial occupancy of the premises, provided a

performance bond, if required, has been provided to the City as required in subsection 150.135.8 (A), Occupancy Certificate for Structures.

(D) Record Drawings Required. Prior to the issuance of an occupancy certificate, the Zoning Administrator may request as-built drawings, due to physical considerations of the site or changes during the construction, once all of the required improvements shown on the approved site design plan have been completed. The developer shall submit to the Zoning Administrator two copies for review of the completed as-built site plan or building location survey. The administrator, based on physical considerations of the site or changes during the construction, may require the plan or survey to be certified and sealed by an engineer, architect, or surveyor. If evaluation of the "as-built" drawings indicate that provisions of this Zoning Code have not been adhered to, the applicant shall re-submit a site design plan application in accordance with the regulations in this Section.

(E) An occupancy certificate shall be issued, or written notice shall be given to the applicant stating the reasons why a certificate cannot be issued, within 15 days after the receipt of an application therefore, or after the Zoning Administrator is notified in writing that the structures or premises are ready for inspection for an occupancy certificate. (Ord. 30515-05, passed 12-28-05 amend Ord. 30762-08, passed 7-16-08; amend Ord. 31426-15, passed 7-29-15)

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

§150.140.1 Purpose
§150.140.2 Variances
§150.140.3 Non-conforming Lots of Record
§150.140.4 Non-conforming Use of Buildings and Land
§150.140.5 Non-conforming Buildings or Structures Used for a Permitted Use
§150.140.6 Other Non-Conformities

150.140.1 Purpose

The purpose of this Section is to recognize the existence of uses, buildings, lots, structures and conditions that lawfully existed at the time of this Zoning Code's enactment, or amendment thereto, but which now do not conform with one or more of the regulations contained in this Zoning Code. Non-conforming status is considered to be incompatible with permitted uses in the zoning district in which it exists. Therefore, non-conforming uses, buildings, lots, and structures are subject to regulations limiting their use, restoration, reconstruction, extension, and substitution. Such non-conforming status shall be continued only in conformance with this Section. (Ord. 30515-05, passed 12-28-05)

150.140.2 Variances

A non-conforming lot, use, building or structure does not constitute nonconformity with regulations pursuant to a legally granted variance from a zoning regulation. (Ord. 30515-05, passed 12-28-05)

150.140.3 Non-Conforming Lots of Record

A lot of record that does not comply, on the effective date of this Zoning Code or any amendment thereto, with the lot area or lot width regulations of the district in which the lot is located may be used as follows:

(A) Existing Dwelling on a Residential Lot. If the lot is occupied by a dwelling, such dwelling shall be maintained and may be repaired, modernized or altered, provided that the building shall not be enlarged in floor area unless the enlarged portion(s) complies with all regulations of this Zoning Code, except the lot area, lot width, and setback regulations of the district in which the lot is located. The number of dwelling units shall not be increased unless all regulations, including lot area, are complied with.

(B) Vacant Single Non-conforming Lot of Record.

(1) Vacant Non-conforming Lot in a Residential District. A vacant non-conforming lot in a residential district that is in separate ownership and not of continuous frontage with other lots in the same ownership shall be permitted to be developed as a site for a single-family dwelling provided that the dwelling and its accessory uses comply with all regulations of this Zoning Ordinance, except the lot area and lot width regulations of the district in which the lot is located, except as follows:

(a) The sum of the widths of the two (2) side setbacks shall not be less than 25% of the width of the lot; nor shall the width of either required side setback be less than 10% of the width of the lot; and,

(b) The width of any side setback that adjoins a public street shall not be less than ten (10) feet.

(2) Vacant Non-conforming Lot in a Non-residential District. A vacant non-conforming lot in a non-residential district may be used for any use permitted in the district in which it is located if, but only if, the development of such lot meets all requirements of the district in which it is located, including the setback requirements, except lot area and width requirements. However, no use that requires a greater lot size than the established minimum lot size for a particular district is permissible on a non-conforming lot.

(C) Vacant Lots in Combination. If a vacant non-conforming lot adjoins one or more lots in common ownership on the effective date of this Zoning Code or applicable amendment thereto, such lot shall be replatted to create conforming lots as a prerequisite for development. No portion of such parcel shall be used or sold in a manner that diminishes compliance with lot width and size requirements established by this Zoning Code. (Ord. 30515-05, passed 12-28-05; amend Ord. 30762-08, passed 7-16-08)

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) 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.

(C) Expansion or Relocation of Non-Conforming Use of Land. A non-conforming use of land shall not be physically enlarged, increased, extended, or relocated to a part of the lot that was not occupied by the use at the time it became non-conforming. No additional structures shall be constructed in connection with such non-conforming use.

(D) Expanding Non-Conforming Uses within Structures. Upon approval by the Zoning Administrator, a non-conforming use of an existing structure may be extended throughout any parts of a building that were arranged or designed for such use at the time of adoption or amendment to this Zoning Code, provided the intensity of the non-conforming use is not increased and no such use shall be extended to occupy any land outside such building not previously occupied by such non-conforming use. In determining whether intensity of use is increased, the Zoning Administrator shall consider the following:

(1) Hours of operation;
(2) Volume and type of sales;
(3) Type of processing activity;
(4) Nature and location of storage;
(5) Traffic generation by volume, type, and characteristics;
(6) Parking and loading characteristics;
(7) Noise, smoke, odor, glare, vibration, radiation, and fumes; and,
(8) For uses in the **WO** or **WP** Districts, Total Maximum Daily Inventory, Facility Hazard Potential Rating, and requirements found in Section 150.120.

(E) Moving. No building or other structure that is devoted in whole or in part to a non-conforming use, shall be moved in whole or in part, to any other location on the same lot or any other lot unless the entire building or other structure and the use thereof shall thereafter conform to the regulations of the district in which it is located after being moved. Moreover, no non-conforming use of land shall be moved, in whole or in part, to any other location on the same or any other lot unless such use shall thereafter conform to the regulations of the district in which it is located after being moved.

(F) Change or Substitution of Use.

(1) A non-conforming use of a building, structure or land shall not be changed or substituted to another non-conforming use unless the Zoning Administrator finds that the use proposed is equally or more in conformity with the stated purpose of the district than the existing non-conforming use; that the use proposed is in less conflict with the

character of uses permitted in the applicable zoning district than the existing non-conforming use; and that the proposed substitution is of no greater intensity than the previous use, pursuant to the criteria in sub-section 150.140.4 (D); and the Zoning Administrator finds based upon the particular evidence submitted, that support conclusions that:

(a) Adequate utility, drainage, and other such necessary facilities have been or will be provided.

(b) Adequate access roads or entrance and exit drives will be provided and will be designed so as to prevent traffic hazards and to minimize traffic conflicts and congestion in public streets and alleys.

(c) All necessary permits and licenses for the use and operation of the substitution have been obtained, or evidence has been submitted that such permits are obtainable for the proposed substitution on the subject property.

(d) All exterior lighting fixtures are shaded wherever necessary to avoid casting direct light upon any property located in a residential district.

(e) The proposed substitution will not cause substantial injury to the value of other property in the neighborhood in which it is located and will contribute to and promote the convenience and welfare of the public.

(f) In granting a substitution, the Zoning Administrator may impose such reasonable conditions, safeguards, and restrictions upon the premises benefited by the substitution as may be necessary to comply with the above standards and to reduce or minimize any potentially injurious effect of such substitution upon other property in the neighborhood and to carry out the general purpose and intent of this Zoning Code.

(2) If the Zoning Administrator is unable to make the findings in sub-section 150.140.4 (F), the Zoning Administrator may, at his discretion, refer the application to the Board of Zoning Appeals. At which time, the BZA shall hear and decide the application for a change or substitution of a non-conforming use. Such application for a substitution of a non-conforming use shall be noticed and heard in the manner prescribed for appeals in Section 150.120, Appeals and Variances.

(3) Whenever a non-conforming use is changed to a less intensive use, such use shall not thereafter be changed to a more intensive non-conforming use.

(4) If the applicant intends to alter non-conforming site conditions as part of the substitution, the provisions in sub-section 150.140.6 (C), Existing

Non-conforming Site Conditions at the Time of Site Design Plan Review, shall apply.

(G) Discontinuance of Use. In the event that operation of a non-conforming use of land, buildings and/or structures is voluntarily discontinued for any period of 184 days or more, such non-conforming use shall not thereafter be reestablished and any subsequent use or occupancy of such land, buildings, and/or structures shall conform to the regulations of the district in which it is located. When evaluating if a use has been discontinued, the following criteria shall be considered:

(1) Failure to maintain regular business hours, typical or normal for the use (past operations of the use and/or industry standards may be used to determine typical or normal hours);

(2) Failure to maintain equipment, supplies, or stock-in-trade which would be used for the active operation of the use;

(3) Failure to maintain utilities which would be required for the active operation of the use;

(4) Failure to pay taxes and assessments or enter into a repayment plan, including but not limited to sales taxes, workers' compensation taxes, corporate taxes, etc., that would be required for active operation of the use;

(5) Failure to maintain required local, state, or federal licenses or other approvals that would be required for the active operation of the use;

(6) Failure to maintain building, signage, or site in a manner that would be necessary for the active operation of the use.

(H) Discontinuance of Non-conforming Accessory Uses. No non-conforming accessory use shall continue after the principal use to which it is accessory has been discontinued.

(I) Change from Non-conforming Use. A non-conforming building or use shall cease to be considered as such whenever it first comes into compliance with the regulations of the district in which it is located. Upon such compliance, no non-conforming use shall be made, resumed or reinstated.

(J) Damage or Destruction. In the event a building or structure that is occupied by a non-conforming use is destroyed by any means to the extent of more than 50% of its replacement value, it shall not be rebuilt, restored or reoccupied for any use unless such use conforms to the use regulations of the zoning district in which the building or structure is located.

(K) Existing Use Deemed Conditional Use; Permit Required For Change. Any lawfully existing use that, at the time of its establishment, was not classified as a conditional use, but which now, because of the passage of this Zoning Code, or amendment thereto, is listed as a conditional use in the zoning district in which it is located, shall be deemed without further action to be a conditional use. Any

change, modification, enlargement or alteration of such use, site development conditions or signs, shall only be permitted upon review and approval by the Board of Zoning Appeals according to the procedures for conditional uses set forth in Section 150.500, Conditional Use and Specific Use Regulations.

(L) Exclusion for Certain Non-conforming Uses in the **WO** or **WP** Districts. In the **WO** or **WP** Districts, uses that are non-conforming solely because their Total Maximum Daily Inventory exceeds the limits established by Section 150.363, shall be excluded from the provisions of sub-sections 150.140.4(B), (C), (E), and (J). (Ord. 30515-05, passed 12-28-05; amend Ord. 31426-15, passed 7-29-15; amend Ord. 31490-16, passed 5-04-16)

150.140.5 Non-Conforming Buildings or Structures Used for a Permitted Use

Where a lawful structure or building exists before the effective date of this Zoning Code, or amendment of this Zoning Code that could not now be built under the terms of this Code by reason or restrictions on area, lot coverage, height, setbacks, its location on the lot, bulk or other requirements under this Zoning Code concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

(A) Enlargement, repair, and alterations. A non-conforming building or structure may be enlarged, maintained, repaired, or structurally altered. However, no such enlargement, maintenance, repair, or structural alteration shall either create any additional nonconformity or increase the degree of the existing nonconformity of all or any part of such building or structure with respect to Zoning Code Requirements. The extension or enlargement of a non-conforming building or structure shall not occupy ground space suitable and otherwise available for meeting the off-street parking requirements of this Zoning Code, if the extension or enlargement creates a non-conforming parking facility.

(B) Conversions for Residential Purposes. Conversions for residential purposes shall comply with the lot area requirements applicable to vacant non-conforming lots in sub-section 150.140.3 (B)(1), Vacant Non-conforming Lot in a Residential District, and there shall be no further encroachment upon any bulk regulations that do not comply with those of the district in which the conversion is to take place.

(C) Damage or Destruction. In the event that a building or structure which is non-conforming under this Zoning Code is damaged or destroyed, by any means, to such an extent that the cost of restoring it to the condition in which it was before such damage or destruction exceeds 50% of the current replacement cost of the entire building or structure, exclusive of foundations, such building or structure shall not be restored unless it shall thereafter conform to the regulations for the district in which it is located.

(D) Moving. No building or structure which is non-conforming under this Zoning Code shall be moved in whole or in part to any other location on the same or any other lot unless the entire building or structure shall thereafter conform to the regulations of the district in which it is located after being moved.

(E) Change in Principal Use of Non-conforming Building. The principal use of a non-conforming building may be changed to any other use permitted in the district in which it is located so long as the new use complies with all regulations of this Zoning Code specified for such use, except the regulations to which the building did not conform prior to the change in use. (Ord. 30515-05, passed 12-28-05)

150.140.6 Other Non-Conformities

(A) Non-Conforming Parking Facilities. A building or use existing lawfully at the time this Zoning Code, or an amendment thereto, became or becomes effective, but which does not comply with the off-street parking regulations for the use, may continue without such parking facilities. In the event an existing building is altered or a use is changed or substituted in accordance with these regulations, then additional off-street parking spaces shall be provided in compliance with Section 150.700, Off-Street Parking and Loading Regulations.

(B) Non-Conforming Signs. A sign, lawfully existing at the time this Zoning Code, or any amendment thereto, became or becomes effective, but which fails to conform to the sign regulations of the district in which it is located is a non-conforming sign. Non-conforming signs shall comply with the regulations set forth in Section 150.900, Sign Regulations.

(C) Existing Non-conforming Site Condition at the Time of Site Design Plan Review.

(1) Major Site Design Plan Review. If a non-conforming site condition(s) exists when a revised major site design plan is required, then such site condition(s) shall be brought into compliance with applicable regulations, unless the Plan Board determines that such conformance cannot be reasonably achieved because of existing site conditions. Existing site conditions include, but are not limited to, the existing lot configuration and patterns of surrounding development; inability of the applicant to acquire additional property; location of the existing structures on the site in question; the location of parking and access on the site in question, and the location of utilities both on and off-site. In such cases, the Plan Board shall approve a site design plan that reduces the existing non-conforming site condition(s) to the maximum extent practicable.

(2) Minor Site Design Plan Review. If a non-conforming site condition(s) exists when a revised minor site design plan is required, then such site condition(s), which are affected by the proposed alteration, shall be brought into compliance with applicable regulations. If the applicant objects to full compliance, the applicant may request that the Plan Board review the proposed site design plan under the provisions in 150.140.6 (C) (1). The Plan Board will review the proposed minor site design plan pursuant to the procedures in sub-section 150.115.7, Site Design Plan Review Procedures. (Ord. 30515-05, passed 12-28-05)

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Section 150.200
Definitions

§150.200.1 Interpretation
§150.200.2 Definitions

150.200.1 Interpretation.

For the purpose of this Zoning Code, terms or words used herein shall be interpreted according to this Section. In the case of a discrepancy in meaning or implication between the text of this Code and any illustration or caption, the text shall control.

(A) The word "shall" signifies a mandatory requirement, one that is not discretionary; the word "may" signifies a permissive or discretionary requirement; and the word “should” is a preferred requirement.

(B) The word “building” includes the word “structure.”

(C) The word "person" includes a firm, association, organization, partnership, trust, company, corporation, or similar entity, as well as an individual.

(D) The words "used" and "occupied" include the words "arranged, designed, constructed, altered, or intended to be used."

(E) The word “lot” includes the words “plot” and “parcel.”

(F) BZA shall mean Board of Zoning Appeals.

(G) The words “the Board” or “Plan Board” shall mean the City of Dayton Plan Board

(H) The words Landmark Commission shall mean the City of Dayton Landmark Commission.

(I) The word “Dayton” shall mean the City of Dayton, Ohio.

(J) The word “City” shall mean the City of Dayton, Ohio.

(K) R.C.G.O. shall mean the Revised Code of General Ordinances for the City of Dayton.

(L) OAC shall mean the Ohio Administrative Code. This Zoning Code cites specific code sections from the OAC, and while these code sections may change after the adoption of this Zoning Code, the intent of these referenced sections shall remain.

(M) ORC shall mean the Ohio Revised Code. This Zoning Code cites specific code sections from the ORC, and while these code sections may change after the adoption of this Zoning Code, the intent of these referenced sections shall remain.

(N) The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.

(O) Whenever a number of days are specified, days shall mean calendar days unless specifically noted otherwise.

(P) The words "Zoning Occupancy Certificate" shall mean Occupancy Certificate as regulated in Section 150.135. (Ord. 30515-05, passed 12-28-05; amend Ord. 31426-15, passed 7-29-15)

150.200.2 Definitions.

(A) Words used in this Code are used in their ordinary English usage.

(B) For the purpose of this Zoning Code, the following terms shall have the meaning herein indicated:

Abut. To physically touch or border upon; or to share a common property line but not overlap. For the purposes of this Zoning Code, abut shall include properties separated by a publicly dedicated alley.

Accessory structure. A structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure.

Accessory Use. See Use, Accessory.

Adjacent. See Abut.

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) An adult care facility that provides accommodations for 3 to 5 adults; and,

(b) An adult care facility that provides accommodations for 6 to 16 adults.

Agriculture, Livestock. The use of land that involves the keeping of livestock. This classification includes the accessory structures necessary and the residence of the person who owns and operates the agriculture, livestock use, and family thereof; provided, however, the following shall not be permitted in connection with any agricultural, livestock use:

(a) The raising of poultry or furbearing animals, as a principal use.

(b) The raising of livestock fed from garbage or offal, and the feeding or grazing of animals or poultry in either penned enclosures or in open pasture within 100 feet of any lot line are not permitted in any zoning district.

(c) The operation or maintenance of a stock yard or feed lot is not permitted in any zoning district.

(d) Wholesale or retail sales as an accessory use, unless the same are specifically permitted by this Zoning Code.

Airport. A facility for the takeoff and landing of aircraft, including runways, aircraft storage buildings, helicopter pads, air traffic control facilities, terminal buildings and airport auxiliary facilities, including but not limited to lighting and antennae systems, access roads and various

accommodations for passengers. This term also includes aircraft maintenance facilities and heliports when part of a larger airport facility**.**

Airport Master Plan. A long term development plan for the Dayton International Airport that is maintained by the Dayton International Airport and approved by the Federal Aviation Administration.

Alley. A service roadway providing a secondary means of public access to abutting property and not intended for general traffic circulation.

Amusement park. A facility, primarily outdoors, that may include structures and buildings, where there are various devices for entertainment, including rides, booths for the conduct of games or sale of items, buildings for shows and entertainment, and restaurants and souvenir sales.

Animal boarding facility. A facility in which more than 4 dogs or 4 cats, or any combination thereof, over the age of 5 months may be kept for boarding, breeding, safekeeping, convalescence, humane disposal, placement, or sale. This facility includes a kennel, and it may include outside runs and outside boarding facilities.

Animal hospital/clinic. A facility where domestic animals are given medical or surgical treatment and the boarding of animals occurs only as an incidental use for not more than 30 days. This facility may include outdoor runs or boarding facilities as an accessory use where permitted.

Aquifer. A glacial formation, group of glacial formations, or part of a glacial formation that contains enough saturated permeable material to yield significant quantities of water.

Architectural compatibility. A design or material/color selection is compatible when it does not strongly deviate from its parent building or the overall character of the neighborhood. To be compatible does not require look alike designs, but rather designs that reflect some aspects of its parent building or buildings in the general vicinity, such as scale of windows, overhangs, building materials, patterns of siding, roof slope. Conversely, incompatibly occurs when an architectural design, landscape design or accessory building proposal is aesthetically harsh or overwhelming relative to its neighbors.

Architectural feature. See Sign.

Area. For the purposes of Section 150.345, Historic Overlay Districts, a group of parcels or public spaces.

Assembly hall. An establishment providing meeting space for social gatherings, including but not limited to wedding receptions, graduations parties and business or retirement functions. This term includes, but is not limited to, a banquet hall or rental hall.

Auditorium. A facility that accommodates public assembly for meetings, amusements, or entertainment.

Automobile service station. (See also Vehicle Fueling Station): A building, part of a building, structure or space which is used for the retail sale of lubricants and motor vehicle accessories, the routine maintenance and service of vehicles and the making of minor repairs to motor vehicles. Repairs described under MOTOR VEHICLE REPAIR, shall not be permitted.

Average. The result of dividing the sum of two or more quantities by the number of quantities.

Bank. An establishment providing retail banking, credit and mortgage services. This term shall not include a currency exchange, a payday loan agency or a title loan agency.

Basement or cellar. That portion of a building located partly underground but having more than 1/2 of its clear floor-to-ceiling height below the average grade of the adjoining ground.

Bed and breakfast establishment. A residential building, other than a hotel or motel, where overnight lodging, together with breakfast, is offered to the general public in exchange for a daily fee.

Berm. An earthen mound designed to provide visual interest on a site, screen undesirable views, and/or decrease noise.

Bike sharing organization. A service approved by the Zoning Administrator in which bicycles are made available for shared use to individuals on a short term basis. The service allows a user to check out a bicycle at a bike sharing station operated by the bike sharing organization and return it to another bike sharing station located within the bike sharing organization's service area.

Bike sharing station. A facility where bicycles are checked out and returned that is part of a network of other bike sharing stations operated by a bike sharing organization.

Block face. A single side of a dedicated street running from street to street including parcels and public right-of-way.

Brewpub. A "Restaurant, indoor dining" that includes the production and packaging of beverages for on and off premise consumption on less than 75% of the total gross floor area.

Buffer or buffer yard. A combination of physical space and vertical elements, such as plants, berms, fences, or walls, the purpose of which is to separate and screen incompatible land uses from each other.

Building. Any structure having one or more floors and a roof supported by columns or walls, which is completely enclosed and is designed or intended for the shelter or protection of persons, animals or property.

(a) **Building, accessory:** A subordinate building detached from, but located on the same lot as, the principal or main building, the use of which is incidental and accessory to the principal building or use and which is constructed subsequent to the principal building or main use of the land.

(b) **Building, principal:** A building occupied by the main use of the lot on which said building is located.

Building height. The vertical distance of a structure measured from the average elevation of the finished grade surrounding the structure to the highest point of the structure excluding:

(a) Chimneys, flues, stacks, fire escapes, gas holders, elevator enclosures, ventilators, skylights, water tanks, and similar roof structures needed to operate and maintain the building on which they are located; and,

(b) Flag poles, aerials, water towers and tanks, steeples, and bell towers, carillons, monuments, and cupolas.

Building line. An imaginary linear extension of the building parallel or substantially parallel to the street right-of-way line defining the limits of the front yard, or in the case of a corner lot, the corner side yard.

Building wall. See Sign.

Bulk fuels storage facility. Includes but is not limited to bulk chemical plants, oil terminals, refineries, vapor recovery and vapor-processing systems.

Caliper. The American Association of Nurseryman standard for trunk measurement of nursery stock. Caliper of the trunk shall be taken six (6) inches above the ground up to and including four-inch caliper size, and twelve (12) inches above the ground for a caliper size greater than four (4) inches.

Campground. A plot of ground upon which two or more campsites are located, established, or maintained for occupancy by camping units as temporary living quarters for recreational, education, or vacation purposes

Camping unit. Any tent, cabin, recreation vehicle or similar structure established or maintained and operated in a campground as temporary, with temporary being defined as less than sixty (60) continuous days, living quarters for recreation, education, or vacation purposes.

Carport. A permanent, roofed structure, with a foundation, designed to provide space for the parking of vehicles and enclosed on not more than three (3) sides.

Car wash. A building or enclosed area that provides facilities for washing and cleaning motor vehicles, which may use production line methods with a conveyor, blower, or other mechanical devices and/or which may employ hand labor.

Cellar. See Basement.

Cemetery. Cemetery means land used or intended to be used for the burial of the human or animal dead, and which is dedicated for cemetery purposes. Cemetery includes mausoleums and mortuaries if operated in connection with, and within the boundaries of a cemetery. This term shall not include crematoriums.

Chlorinated compounds. Synthetic substances containing carbon, hydrogen, and chlorine atoms, such as chlorinated fluorocarbons (CFSs), chlorinated hydrocarbons (CHCs), and carbon tetrachloride.

Church. A building or structure used for public worship. The word "church" includes the words "place of worship," "house of worship," "chapel," "synagogue," "mosque," and "temple" and their uses and activities that are customarily related. The term church does not include emergency shelters.

Class I, II, III, IV, and V underground injection wells. A well into which fluids are being injected as defined in OAC § 3745-34.

Class VI underground injection well. A well used for the injection of carbon dioxide (CO2) into underground subsurface rock formations for long-term storage, or geologic sequestration as detailed in 40 CFR § 146 Subpart H.

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.

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).

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.

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.

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.

Compost. A humus-like material resulting from the controlled biological decomposition of organic waste material.

Composting, incidental. The controlled biological decomposition of organic garden, yard, and kitchen waste materials under aerobic conditions to produce compost that may be used without producing any adverse impact on the environment or to public health. This term shall not include solid waste composting facilities.

Comprehensive Plan. A long-range plan intended to guide the growth and development of the City, based on study and analysis of the City's existing conditions, including population and housing, historic and natural features, general land use patterns and zoning regulations, and other development considerations.

Concentrated animal feeding facility. An animal feedlot, including animal manure management facilities as detailed in ORC Chapter 903 and including land application areas for managing and disposal of animal manure.

Congregate care facility. A residential facility that provides for the needs of individuals who are elderly or disabled. The facility shall consist of residential dwelling units or rooms designed specifically for the elderly or disabled, and may have common social, recreational, dining and/or food preparation facilities. The facility may be for independent living and/or may provide the residents with a range of personal and medical assistance including nursing care.

Construction and Demolition Waste Facility. See Waste facility, construction and demolition.

Contour. An imaginary line connecting all points with the same elevation above or below a fixed base point whose elevation is known.

Contributing properties. See 150.345.8.

Convention and exposition center. A commercial facility used for trade shows, assemblies or meetings, including exhibition space. This term does not include banquet halls, clubs, lodges or other meeting facilities of private or nonprofit groups that are primarily used by group members.

Conversions. Any modification or change to an existing dwelling which is intended to or actually does increase the number of dwelling or rooming units.

County. Montgomery County, Ohio.

Crematorium. A facility that burns human or animal dead to ashes.

Cultural institution. An institution that displays or preserves objects of interest to the arts or sciences. This term includes, but is not limited to, a museum, art gallery, aquarium or planetarium.

Dawn. Sunrise.

Day care center. An establishment in which the operator is provided with compensation in return for providing individuals with care for less than 24 hours at a time. This term includes, but is not limited to, a day nursery, nursery school, adult day care center or other supplemental care facility. This term does not include a family day care home. (See the definition of family day care home.)

(a) **Adult day care center**. An adult day care center shall not include a convalescent home, hospital or any other full-time care facility.

(b) **Child day care center**. Any place that provides day care or publicly funded day care to 13 or more children at one time; or any place that is not the residence of the licensee or administrator where child day care is provided to 7 to 12 children at one time.

Density. The number of dwelling units permitted per acre of land.

(a) **Density, Gross.** Gross density means the number of dwelling units permitted per acre of total land area.

(b) **Density, Net.** Net density means the number of dwelling units permitted per acre of land when the acreage involved includes only the land devoted to residential uses and excluding land dedicated to public thoroughfares or other unbuildable land areas.

Developer. The legal or beneficial owner or owners of a lot or any land included in a proposed development including the holder of an option or contract to purchase, or other persons having enforceable proprietary interests in such land.

Development. The construction of a new building or other structures on a zoning lot, the relocation of an existing building on another zoning lot, or the use of open land for a new use.

Also means any man-made change to improved or unimproved real estate, including but not limited to parking, fences, pools, temporary uses, clearing of land, mining, dredging, filling, grading, paving, excavation, or drilling operations.

Developmentally disabled person. "Developmentally disabled person" means a person who has a physical or mental impairment, or both, that substantially limits one or more major life activities, such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, learning, breathing, or working. A physical or mental impairment may include, but is not limited to, orthopedic, visual, speech, or hearing impairments, Alzheimer's disease, presenile dementia, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, intellectual disability, autism or emotional illness, but shall not include use of and/or addiction to a controlled substance.

Diameter-at-breast-height (DBH). The diameter of a tree trunk measured in inches at a height 4.5 feet above ground. If a tree splits into multiple trunks below 4.5 feet, the trunk is measured at its most narrow point below the split.

Dormitory. A building used as living quarters for a student body or religious order and which is related to and/or intended to associate with a college, university, boarding school, orphanage, religious facility, or similar institution.

Drive-thru facility. Any portion of a building from which business is transacted, or is capable of being transacted, directly with customers located in a motor vehicle during such business transactions. The term "drive-thru" shall also include "drive-up" and "drive-in" but shall not include Car Wash, Vehicle Fueling Station, and Automobile Service Station.

Driveway. A private access road, the use of which is limited to persons residing, employed, or otherwise using or visiting the parcel on which it is located.

Driveway approach. The area from the street pavement to a zoning lot that provides vehicular access to a driveway or the area from the alley pavement that provides vehicular access to a garage that opens to an alley.

Dry well. A well, other than an improved sinkhole or subsurface fluid distribution system, completed above the water table so its bottom and sides are typically dry except when receiving fluids (see OAC § 3745-34); designed to drain surface fluids, primarily storm water runoff, into a subsurface formation.

Dusk. Sunset.

Dwelling. Any building or portion thereof, containing one or more dwelling units designed for or occupied exclusively for residential purposes, including single-family, two-family and multi-family dwellings as well as factory-built housing, as defined herein.

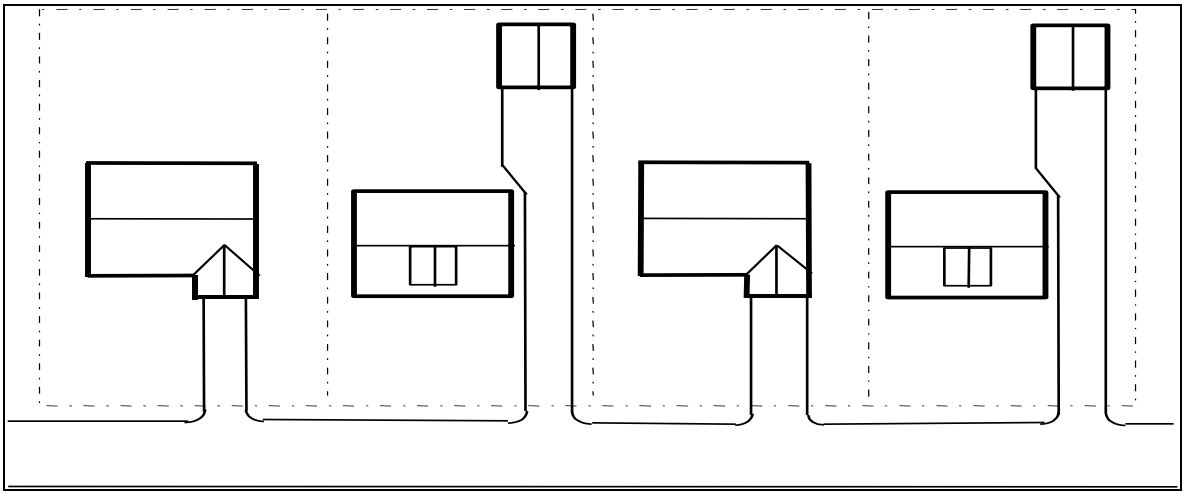
Dwelling, attached single-family. Dwelling units that are structurally attached to one another, side by side, and erected as one building, each dwelling unit being separated from the adjoining unit or units by a party wall without openings extending from the basement floor to the roof and each such building being separated from any other building by space on all sides, and including such elements as separate ground floor entrances, services and attached garages.

Dwelling, cluster single-family detached. A dwelling unit which is designed and used exclusively by one family and separated from all other dwelling units by open space from ground to sky, which is grouped with other dwelling units on a site in an arrangement. The cluster dwelling does not need to be located on its own subdivided lot, but shall comply with the requirements for planned developments and/or for those uses denoted with a P*.

Dwelling, detached single-family. A dwelling unit designed and used for one (1) family situated on a lot having a front, side and rear yard and separated from all other dwelling units by open space from ground to sky. See also Figure 1.

Figure 1.

Detached Single-Family Dwellings



Dwelling, multi-family. A dwelling designed for three (3) or more dwelling units, occupied by three (3) or more families living independently of each other where the units are separated by party walls with varying arrangements of entrances, and which does not meet the definition of attached single-family dwelling units. This term includes the conversion of non-residential buildings to residential use.

Dwelling, two-family. A dwelling, having the exterior appearance of a single-family house, designed for or converted to contain two (2) dwelling units, occupied by two (2) families living independently of each other.

Dwelling unit. One or more rooms comprising living, dining, sleeping room or rooms, storage closets, as well as space and equipment for cooking, bathing and toilet facilities, all used by only one (1) family.

Easement. A right granted by the owner of land to other parties to use such land for a specific purpose, such as public utility lines or for access to other properties.

Emergency day shelter. A facility managed by a public or nonprofit agency that provides day-time shelter and a protective sanctuary for victims of fire, natural disaster, economic hardship, crime, abuse or neglect. Emergency day shelters may or may not have food preparation facilities

and private shower or bath facilities. Emergency day shelters shall be co-located in emergency housing facilities and are prohibited as stand-alone facilities.

Emergency housing. A facility managed by a public or nonprofit agency that provides short-term housing for up to sixty (60) days and a protective sanctuary for victims of fire, natural disaster, economic hardship, crime, abuse or neglect. Emergency housing may operate 24 hours a day, seven days a week and contain individual or group sleeping rooms and may or may not have food preparation facilities and private shower or bath facilities. Emergency day shelters may be co-located in emergency housing facilities.

Environmental Advisory Board (EAB). The Board established pursuant to R.C.G.O. § 44.40.

Equipment sales/rental/service. Establishments primarily engaged in the sale or rental of tools, trucks, tractors, construction equipment, agricultural implements, and similar equipment, and the rental of recreational and commercial motor vehicles. This term includes incidental storage, maintenance, and servicing of such equipment.

Façade. That portion of any exterior elevation on the building extending from grade to the top of the parapet, wall, or eaves and the entire width of the building elevation.

Facility Hazard Potential Rating (FHPR). A value from 1-9 which reflects the overall threat to occupational health and safety and potential adverse impacts to groundwater presented by the chemical activity of uses on a zoning lot, with 9 representing the highest threat and 1 representing the lowest threat, that is established as the maximum value permitted for the zoning lot.

Factory-built housing. Factory-built housing consists of three types of dwelling units: mobile homes, manufactured homes, and modular homes.

(a) **Mobile home.** A residential dwelling, designed to be a permanent residence that was fabricated in an off-site manufacturing facility prior to enactment of the Federal Manufactured Home Safety and Construction Standards.

(b) **Manufactured home.** A residential dwelling built in an off-site manufacturing facility in accordance with the Federal Manufactured Home Safety and Construction Standards.

(c) **Modular home.** A residential dwelling built in an off-site manufacturing facility in accordance with the Ohio Board of Building Standards. Also commonly referred to as a systems-built home, prefabricated home or panelized home.

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.

Family day care home. A residence used to provide childcare as detailed below:

(a) **Type A.** A permanent residence of the day care provider in which child day care or publicly funded day care is provided for seven (7) to twelve (12) children at one time; or, a permanent residence of the day care provider in which child day care is provided for four (4) to twelve (12) children at one time if four (4) or

more of these children are under two (2) years of age. Such facilities shall be licensed as mandated by Chapter 5104 of the Ohio Revised Code.

(b) **Type B.** A permanent residence of the day care provider in which child day care is provided for one (1) to six (6) children at one time. No more than three (3) of these children shall be under two years of age at one time. Any children under six (6) years of age who are related to the provider and who are on the premises of the day-care home shall be counted.

Federal Emergency Management Agency (FEMA). The agency with the overall responsibility for administering the National Flood Insurance Program.

Fence. Any structure composed of material typically used as fencing and designed in manner typical of fencing or as determined appropriate by the Zoning Administrator, and erected in such a manner and positioned to enclose or partially enclose any premises or part of any premises. Hedges, trellises or other structures supporting or for the purpose of supporting vines, flowers and other vegetation when erected in such position to enclose any premises or part of any premises shall be included within the definition of the word "fence". Structures erected other than on lot lines or in close proximity to lot lines, which have solely an ornamental purpose and which do not serve the purpose of enclosing or partially enclosing premises or of separating premises from adjoining premises, shall not be included within the definition of the word "fence". Specific types of fences include:

(a) **Barbed wire.** "Barbed wire fence" means a fence made with metal wire having sharp points, razors or razor ribbon, or barbs along its length.

(b) Chain link**.** "Chain link fence" means a fence made of metal loops or vinyl-coated metal loops interconnected in a series of joined links.

(c) **Electrified.** "Electrified fence" means all fences or structures, included or attached to any device or object which emits or produces an electrical charge, impulse or shock when the same comes into contact with any other object, person or animal or which causes or may cause burns to any person or animal.

(d) **Ornamental.** "Ornamental fence" means a fence constructed for its beauty or decorative effect and when viewed at a right angle, has not less than seventy-five percent (75%) of the area of its vertical plane, the area within a rectangular outline enclosing all parts of the fence in its plane, open to light and air. Ornamental fences include:

(i) "Rail fence" or "split-rail fence" means a fence constructed of narrow, whole or split, wooden timbers placed horizontally between upright supporting posts; and,

(ii) Wrought iron fences, decorative steel fences, and aluminum fences.

(e) **Privacy.** "Privacy fence" means a fence made to inhibit public view and provide seclusion and when viewed at right angles, has less than twenty-five percent (25%) of the area of its vertical plane open to light and air. Privacy fences include:

(i) "Basket weave fence" or "woven fence" which means a fence made of interwoven strips or slats of flexible or semi-flexible material in which the pattern has the appearance of a plaited basket.

(ii) "Louver fence" or "ventilating fence" which means a fence made of a series of slats placed at an angle or positioned so as to provide air but to deflect light perpendicular to its vertical plane.

(iii) "Board on board fence" or "picket fence."

(iv) "Stockade fence" or "palisade fence" means a fence constructed with a row of stakes, pales or pickets placed upright against each other and having at least fifty percent (50%) of the area of its vertical plane closed to light and air.

Final Plan. A plan which may be submitted for all or part of the land area shown on an approved Planned Development. A Final Plan includes all the drawings, maps, and other elements set forth in Section 150.350.5, Final Plan Application Requirements.

Financial institution. See Bank.

Flag. See Sign.

Fleet vehicles. Trucks, vans, and other vehicles, including motorized equipment, which are used as part of the operation of a principal use, but not including privately owned customer or employee vehicles.

Flood or flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters, or

(b) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood Insurance Rate Map (FIRM). An official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Flood insurance study. The official report in which the Federal Emergency Management Agency has provided flood profiles, as well as the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

Floodway. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 1/2 foot.

Floor area, gross. The sum of the gross horizontal areas of all floors of a building, measured from the exterior faces of the exterior walls of a building or from the center line of a common wall separating two (2) or more units of a building, including accessory storage areas located within selling or working space, but not including space in cellars or basements, space in machinery penthouses or floor space used for accessory off-street parking. However, if the cellar

or basement is used for business or commercial purposes, it shall be counted as floor area in computing off-street parking requirements.

Floor area, net. The total of all floor areas of a building, excluding stairwells and elevator shafts, equipment rooms, interior vehicular parking or loading; and all floors below the first or ground floor, except when used or intended to be used for human habitation or service to the public.

Footcandle. A unit of illumination produced on a surface, all points of which are one foot from a uniform point source of one candle.

(a) **Footcandle – Horizontal**. The measurement of footcandles utilizing a direct reading, portable light meter mounted in the horizontal position.

(b) **Footcandle – Vertical**. The measurement of footcandles utilizing a direct reading, portable light meter mounted in the vertical position.

Foster child. "Foster child" means a person under twenty-one (21) years of age who is placed in a dwelling unit or a residential facility by an institution or agency, licensed or approved by an appropriate State-regulating agency to place foster children.

Fraternity. A building used as group living quarters for members of a general or local chapter of a regularly organized college fraternity.

Freestanding drive-thru facility. A facility whose only use is transacting business with customers located in a motor vehicle during such business transaction.

Frontage line. All lot lines that abut a public street. A corner lot or through lot has two or more frontage lines.

Full-shielded or full cut-off type fixture. An outdoor lighting fixture that is shielded or constructed so that all light emitted is projected below a horizontal plane running through the lowest light-emitting part of the fixture. See Figure 2.

Figure 2, Full Cut-Off Lighting

University of Texas, Austin

Full cut-off lighting directs light down and to the sides as needed.

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.

Garage. A building, or part thereof, used or intended to be used for the parking and storage of vehicles.

Gasoline station. See Vehicle Fueling Station. (See also Automobile Service Station)

General Development Plan. A general development plan indicates the general concept of development for a site including the general location of use areas, building envelopes, open space, and circulation pattern. A general development plan includes all the drawings, maps, and other elements set forth in Section 150.335.12 (C)(2)(a), General Development Plan Submission Requirements.

Glare. Direct light that causes annoyance, discomfort or loss in visual performance and visibility.

Globally Harmonized System of classification and labeling chemicals (GHS). System for standardizing and harmonizing the labeling of chemicals as implemented under 29 CFR § 1910.1200.

Golf/swim/tennis club. A recreation facility operated by a homeowners association or other non-profit organization and open only to bona fide members and guests of such non-profit organization.

Grade and fill site. A tract of land on which the owner wishes to change existing grade in order to increase its potential usefulness for a particular purpose.

Handle. To place, deposit, store, process, use, produce, dispose of, transport, or release Regulated Substances; or permit Regulated Substances to be placed, deposited, stored, processed, used, produced, disposed of, transported or released.

Harvesting. The use of land for the purpose(s) of harvesting, farming, gardening, beekeeping, or composting that is on a property of one acre or more and does not include the keeping of livestock.

Hazardous liquid. Any liquid defined in the Hazardous Liquid Pipeline Safety Act of 1979 which includes: (A) petroleum or a petroleum product; and/or (B) a substance the Secretary of Transportation decides may pose an unreasonable risk to life or property when transported by a hazardous liquid pipeline facility in a liquid state (except for liquefied natural gas). This term also includes any material that is subject to the Hazardous Waste Manifest requirements of the EPA referenced in 40 C.F.R. Part 262, and material listed under the U.S. DOT Hazardous Materials Regulations 49 C.F.R. Parts 100 to 185.

Hazardous liquid pipeline facility. A pipeline, a right of way, a facility, a building, or equipment used or intended to be used in transporting hazardous liquid.

Hazardous waste facility. See Waste facility, hazardous.

Health club. An establishment for the conduct of indoor sports and exercise activities, along with related locker and shower rooms, offices and classrooms, where use of such establishment is offered on a membership basis.

Health hazard. Posing any of the following hazardous effects: acute toxicity (any route of exposure); skin corrosion or irritation; serious eye damage or eye irritation; respiratory or skin sensitization; germ cell mutagenicity; carcinogenicity; reproductive toxicity; specific target organ toxicity (single or repeated exposure); or aspiration hazard. The criteria for determining whether a substance or mixture of substances may pose a health hazard are detailed in Appendix A to 40 C.F.R. § 1910.1200—Health Hazard Criteria.

Health services. See Office, medical/dental.

Helicopter landing facility. Any area used for the landing and take off of helicopters including heliports, helipad, helistops. Peripheral areas, hangars, parking facilities passenger terminals, and helicopter service areas are also part of such facilities.

Historic overlay district. A single property or a geographically definable area possessing a significant concentration, linkage, or continuity of sites, buildings, structures, and/or objects united by past events or aesthetically by plan or physical development.

Home occupation. See Residential/work uses.

Hospital. A facility which provides accommodations and continuous services for the sick and injured which may include pediatrics, obstetrical, medical, surgical, psychiatric or extended care.

Hotel/motel. A building or portion thereof, or a group of buildings, which provides sleeping accommodations for transients on a daily or weekly basis, whether such establishments are designated as a hotel, inn, automobile court, motel, motor inn, motor lodge, tourist cabin, tourist court or otherwise. This definition shall not include emergency or transitional housing.

Household. A family living together in a single dwelling unit, with common access to and common use of all living and eating areas and all areas and facilities for the preparation and serving of food within the dwelling unit.

Incinerator. A device used to burn waste substances and in which all the combustion factors—temperature, retention time, turbulence, and combustion can be controlled.

Industrial Storage. See Heavy manufacturing.

Illuminance. The quantity of light arriving at a surface divided by the area of that surface. Measured in footcandles.

Infectious wastes. Any wastes or combination of wastes that include cultures and stocks of infectious agents and associated biologicals, human blood and blood products, and substances that were or are likely to have been exposed to or contaminated with or are likely to transmit an infectious agent or zoonotic agent and as further defined in ORC 3734.01.

Itinerant Vendor. Any person who engages in, does, or transacts any temporary or transient business selling goods, wares, merchandise, or food from a non-permanent structure not erected on a permanent foundation.

Jail. Pursuant to Section 2929.01 of the Ohio Revised Code, a facility used for the confinement of alleged or convicted offenders that is operated by a political subdivision or a combination of political subdivisions of the State of Ohio.

Junkyard. The use of any land, property, building, structure or combination thereof, to store, dump, sell, exchange, disassemble, crush, or otherwise handle partly dismantled, obsolete, or wrecked vehicles or their parts, second hand building materials, waste, debris, or other salvaged material which, unaltered or unchanged and without further reconditioning, cannot be used for its original purpose as readily as when new. This term includes, but is not limited to, an auto wrecker primarily engaged in dismantling motor vehicles for the purpose of wholesaling scrap. This term does not include salvaged materials incidental to manufacturing operations.

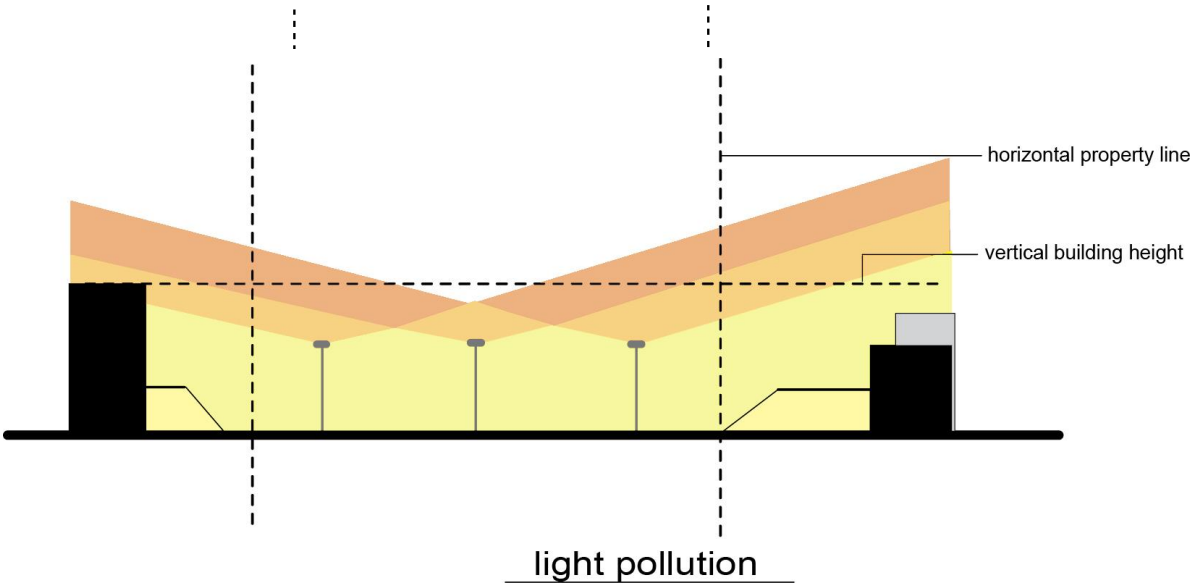
Landscaped area. An area that is permanently devoted to and maintained for the growing of trees, shrubs, grass or other plant material.

Lattice tower. A support structure constructed of vertical metal struts and cross braces forming a triangular or square structure, which often tapers from the foundation to the top.

Library. A facility in which literary, musical, artistic or reference materials, such as, but not limited to, books, manuscripts, computers, recordings or films are kept for use or loaning to patrons of the facility, but are not normally offered for sale.

Light pollution. Any measurable exterior artificial illumination that strays beyond a property line both horizontally at grade and vertically to the building height limitation. See Figure 3.

Figure 3
Light Pollution



Light trespass. Light in sufficient quantity that crosses over property boundaries, impacts surfaces, and produces a negative response in persons owning or using the violated space.

Light uniformity ratios. The uniformity ratio is expressed as either the maximum or average illuminance divided by the minimum illuminance. For example, if the average to minimum ratio is 3:1 and an average illuminance of 6 footcandles is desired, the minimum illuminance at any one point must be 2 footcandles.

Listed Properties. See 150.345.8.

Live-work unit. See Residential/work uses.

Loading space, off-street. An area located completely outside of any public right-of-way and on the same lot with a building or contiguous to a group of buildings, for the temporary parking of vehicles entering the premises for loading or unloading merchandise or materials.

Lot coverage. That portion of a lot, which when viewed directly above, which would be covered by a building or structure, parking and loading areas and other surfaces that are impermeable or substantially impervious to water.

Lot depth. The horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line, or to the rear most point of the lot where there is not rear lot line.

Lot frontage. That portion of the lot extending along the street right-of-way.

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.

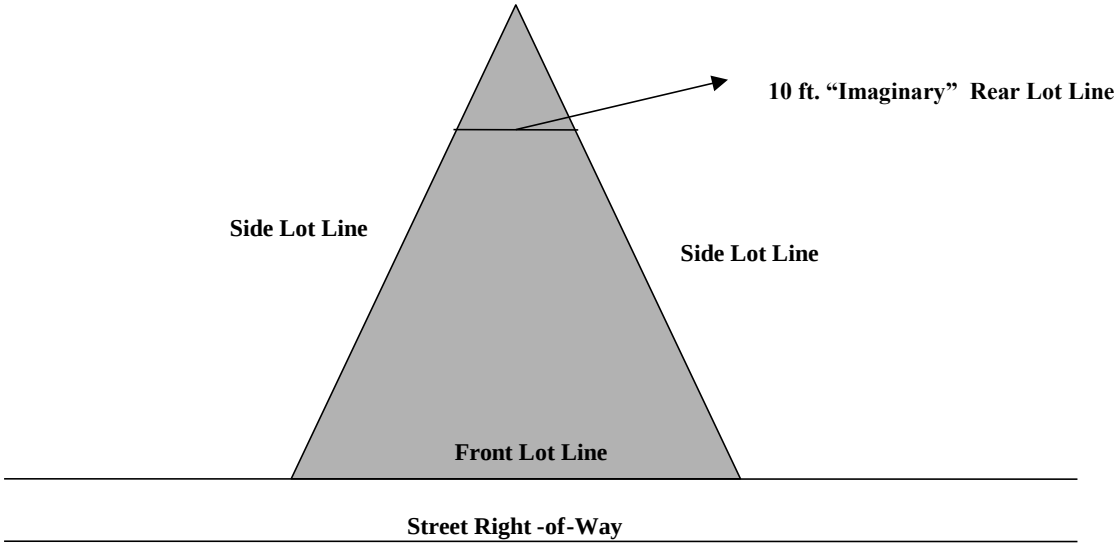
On a corner lot, the street right-of-way with the least amount of street frontage shall be the front lot line**.** If the dimensions of a corner lot are within twenty (20) percent or less of being equal, the Zoning Administrator may establish either street frontage as the front lot line. On corner lots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



Lot of record. A lot which is part of a subdivision, the part of which has been recorded in the office of the Recorder of Deeds of Montgomery County, or a parcel of land the deed to which was recorded, prior to adoption of this Zoning Code.

Lot size. The total horizontal area contained within the lot lines exclusive of any portion of the right-of-way of any public street.

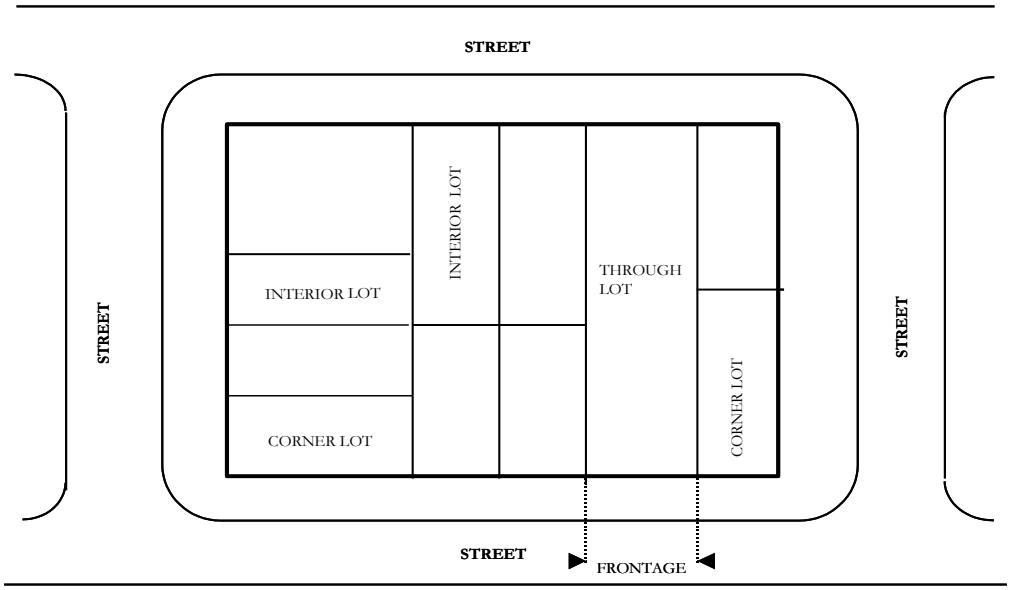
Lot types. Terminology used in this Zoning Code with reference to corner lots, interior lots and through lots is as follows. See also Figure 5 for an illustration of lot types.

(a) **Lot, corner**. A lot which adjoins the point of intersection or meeting of two (2) or more streets and in which the interior angle formed by the street lines is 135 degrees or less.

(b) **Lot, interior.** A lot abutting or with frontage on only one street.

(c) **Lot, through**. A lot having frontage on 2 parallel or approximately parallel streets.

Figure 5
Illustration of Lot Types



Lot width. The horizontal distance between the side lot lines, measured at right angles to the lot depth at the front setback line.

Lot, zoning. A parcel of land not separated by street or alley that is designated by its owner or developer at the time of applying for a zoning certificate, as a tract all of which is to be used, developed, or built upon as a unit under single ownership. As long as it satisfies the above requirements, such lot may consist of:

(a) A single lot of record, or;

(b) A portion of lot of record, or;

(c) A combination of complete lots and portions of lots of record, or portions of lots of record.

Luminaire. A complete lighting unit consisting of a light source and all necessary mechanical, electrical and decorative parts.

Major tree. A living tree with a diameter at breast height (DBH) measurement of at least six (6) inches.

Manufactured home. See Factory-built housing.

Manufactured home community. A residential development in which all land is under single ownership and home sites within the community are leased to individual homeowners, who retain customary leasehold rights. Also known as a land-lease community.

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 "Microbottler."

(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 "Microbottler."

(vii) Sawing and planing mills.

(viii) Ship or boat construction.

(ix) Stonework, concrete or cement product manufacturing.

(b) 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.

(ii) Smelting, animal slaughtering, and oil refining.

(iii) Solid waste composting facilities, Class I, II, and III.

Manufacturing, light. An establishment engaged in the indoor manufacturing, assembly, fabrication, packaging or other industrial processing of finished parts or products, primarily from previously prepared materials, or the indoor provision of industrial services, where there are few external effects across property lines. This term includes, but is not limited to, a business engaged in the processing, fabrication, assembly, treatment or packaging of food, packaging of beverages, textile, leather, wood, paper, chemical, plastic or metal products, but does not include basic industrial processing from raw materials. This term shall not include a "Microbottler."

Manure storage and/or treatment facility. Any area or facilities used for the collection, storage, handling and/or treatment of animal excreta and/or handling or composting of products resulting from animal mortality as detailed in ORC Chapter 903.

Membership clubs. An incorporated or unincorporated association of persons organized for a common purpose to pursue common goals, interests, or activities and usually characterized by certain membership qualifications, payment of fees and dues, regular meetings, and a constitution and by-laws.

Miami Well Field. The Miami Well Field is located in the City of Dayton, County of Montgomery, State of Ohio, with said boundary identified by the following description:

> The point of beginning being the intersection of the west bank of the Great Miami River and the east right-of-way line of the CSX railroad, also being the southwest corner of City Lot # 76667;
>
> Thence northwardly along the west bank of the Great Miami River approximately 2.25 miles or 11,880 feet to the northeast corner of City Lot # 76652;
>
> Thence westwardly along the north lot line of City Lot # 76652 approximately 0.119 miles or 630 feet to the east lot line of City Lot # 76651;
>
> Thence northwardly 0.131 miles or 691 feet to the north lot line of City Lot # 76651;
>
> Thence westwardly approximately 0.493 miles or 2,605 feet along the north lot lines of City Lot #s 76651 and 76627 to the east right-of-way line of Wagner Ford Road;
>
> Thence southwardly approximately 0.926 miles or 4,889 feet along the east right-of-way line of Wagner Ford Road to the east right-of-way line of the CSX railroad;
>
> Thence southwardly approximately 0.658 miles or 3,475 feet along the east right-of-way line of the CSX railroad to the west bank of the Great Miami River to the point of beginning containing 805 acres more or less.

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."

Mixed use/residential. The development of a tract of land or building or structure with two or more different uses, one of which is residential. This mix of uses may include office, retail, commercial, institutional, or entertainment uses in a compact urban form which promotes a highly developed pedestrian-oriented environment.

Mobile home. See Factory-built housing.

Modular home. See Factory-built housing.

Model airplane flying facility. A facility, either indoors or outdoors, for using model vehicles, including but not limited to model aircraft and model boats.

Monopole. A support structure constructed of a single, self-supporting hollow metal tube securely anchored to a foundation.

Motor vehicle body shop. An establishment providing the repair or rebuilding of motor vehicle bodies by the replacement, smoothing, sanding or painting of the exterior surfaces of such vehicles within an enclosed building.

Motor vehicle, lawfully operable. A lawfully operable motor vehicle with a current license and registration whose engine can be started and the vehicle can be driven under its own power at least 100 yards immediately upon request, and which does not have disabling damage as defined by R.C.G.O. Section 76.01.

Motor vehicle rental. An establishment where contracts are prepared or reservations accepted for the rental or leasing of motor vehicles. This term includes outdoor storage of vehicles, but does not include on-premise maintenance of vehicles or a tool/equipment rental facility.

Motor vehicle repair. An establishment providing repair services for motor vehicles, including the sale, installation and servicing of related equipment and parts, where all such work is performed within an enclosed building. This term includes, but is not limited to, the repair or servicing of transmissions, engines or upholstery including the rebuilding or reconditioning of motor vehicles, or parts thereof, including clutch, transmission, differential, axle, spring, and frame repairs; major overhauling or engines requiring the removal of the engine cylinder, head or crankcase pan; repairs to radiators requiring the removal thereof; or similar activities. This term also includes, but is not limited to, an auto repair shop, wheel and brake shop, tire sales and installation, or upholstery shop. This term shall not include vehicle dismantling or salvage, tire re-treading or recapping, or motor vehicle body shop.

Motor vehicle sales. An establishment providing wholesale and retail sale of motor vehicles, including incidental storage and maintenance. This term shall not include the sale of commercial motor vehicles or those uses included in the term Equipment sales/rental/service.

National Register eligible. A property that meets the criteria for listing in the National Register of Historic Places.

National Register structure or district. A property or area that has been listed on the National Register of Historic Places, which is the official list of properties that are significant in American history, architecture, archeology, engineering, or culture.

Nightclub. An establishment operated as a place of entertainment, which may also prepare and serve food and/or beverages for consumption on-site, that is characterized by any or all of the following as a principal use:

(a) Live, recorded, or televised entertainment, including but not limited to performance by magicians, musicians, or comedians;

(b) Dancing.

Non-conformity. A lot, use of land, building, site conditions, use of buildings, or use of buildings and land in combination lawfully existing at the time of enactment of this Zoning Code or its amendments, which do not conform to the current regulations of the district or zone in which it is situated or other regulations in this Zoning Code.

(a) **Non-conforming building.** A building existing lawfully when this Zoning Code, or any amendment thereto, became effective, but which does not conform to the current regulations governing buildings and structures of the district in which it is located.

(b) **Non-conforming lot.** A lot lawfully existing on the effective date of this Zoning Code or any amendment thereto, which on such effective date, does not conform to the current lot area, width or frontage requirements of the district in which it is located.

(c) **Non-conforming site condition.** A site improvement that was legally established, but no longer conforms with the regulations in the Zoning Code.

(d) **Non-conforming use:** A use of any building or land existing lawfully on the effective date of this Zoning Code or any amendment thereto, which does not conform to the current use regulations of the district in which it is situated.

Non contributing properties. See 150.345.8**.**

Nursing home. An establishment providing full-time nursing and medical care to three (3) or more people, not related by blood or marriage, who, by reason of chronic illness, are unable to care for themselves. Hospitals and sanitariums shall not be included in this definition.

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.

Occupancy Certificate. An official statement asserting that a given building, other structure or parcel of land is in compliance with the provisions of all existing codes, or is a lawfully existing nonconforming building or use and, hence, may be occupied and used lawfully for the purposes designated thereon.

Offender. Pursuant to Section 2929.01 of the Ohio Revised Code, a person who, in the State of Ohio, is convicted of or pleads guilty to a felony or a misdemeanor.

Office, administrative/professional. An establishment within which specific services are conducted with other businesses, individuals, organizations or corporate customers, generally on a contractual basis, and not involving the retail sales of merchandise on the premises for walk-in traffic from the street.

Office, medical/dental/health services. An establishment where human patients are examined and treated by a group of dentists, physicians or similar medical professionals. Clinics provide outpatient service only. Included are facilities which provide diagnoses, minor surgical care and outpatient care on a routine basis, but which do not provide overnight care or serve as a base for an ambulance service. Medical/dental facilities are operated by doctors, dentists, or similar practitioners licensed by the State of Ohio. Emergency treatment is not the dominant type of care provided at this facility. Health services includes establishments providing support to medical professionals and patients, such as medical and dental laboratories, blood banks, oxygen, and miscellaneous types of medical supplies and services.

Official thoroughfare plan. The official thoroughfare plan for the City of Dayton establishing the official right-of-way width of major streets, on file in the office of the Department of Planning and Community Development, together with all amendments thereto subsequently adopted.

Outdoor display/sales. Merchandise placed in an outdoor area that is open to the general public, when the merchandise on display is removed from its shipping packaging and is representative of merchandise that is available for purchase inside the building and/or is available for purchase by the general public directly from the display area.

Outdoor storage. The storage of goods, materials, merchandise or vehicles in an area outside of a building or structure except for merchandise placed in an area for outdoor display.

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.

Owner. The person who holds the fee simple title to the property, and the person or persons who have acquired any interest in the property by contract or purchase or otherwise.

Park. A tract of land, designated and used by the public, for active and/or passive recreation.

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.

Parking lot, restricted. A parking lot located in a zoning district in which the principal use served is not a permitted or a conditional use, or is located in an adjacent zoning district in which the principal use served is not a permitted or a conditional use.

Parking space, off-street. An open or enclosed area, defined by painted lines, raised curbs or a combination thereof, outside the public street right-of-way that is used for the parking or temporary storage of registered and licensed motor vehicles. For single-family, two-family, and manufactured home uses, off-street parking spaces do not require painted lines, raised curbs or a combination thereof.

Parking structure. A building or structure consisting of more than one (1) level and used to store motor vehicles.

Per- and Polyfluoroalkyl substances (PFAS). Manufactured (organofluorine) chemicals and substances such as Perfluorooctanesulfonate Acid (PFOS).

Performance guarantee. A financial deposit to ensure that all improvements, facilities, or work required will be completed in conformance with the approved plan.

Performance standard. A criterion established to control enclosure, dust, smoke, fire and explosive hazards, lighting, glare and heat, noise, odor, toxic and noxious matter, vibrations and other conditions created by or inherent in uses of land or buildings.

Permeable. In the context of parking surfaces, a paving system that allows the movement of water and air around the paving material through the void spaces between the pavers. Permeable paving is not pervious paving.

Permit. A document issued by the City of Dayton authorizing the applicant to undertake the activities provided for in this Zoning Code.

Pervious. In the context of parking surfaces, a paving system that allows water and air to filter through the paving material. Pervious paving is not permeable paving.

Pharmaceuticals and Personal Care Products (PPCP). Any product used by individuals for personal health or cosmetic reasons or used by agribusiness to enhance growth or health of livestock.

Planned Development. A tract of land, under unified control, planned and developed as an integral unit as a single development or in defined phases pursuant to 150.350, Planned Development District.

Plant nursery/greenhouse. An establishment engaged in growing crops of any kind within or under a greenhouse, cold frame, cloth house or lath house, or growing nursery stock, annual or perennial flowers, vegetables or other garden or landscaping plants. This term does not include a garden supply or landscaping center.

Plating. Metal or plastic finishing operations including but not limited to electroplating, electroless plating, anodizing, coating (chromating, phosphating, and coloring), chemical etching and milling, printed circuit board manufacture, and "ancillary" process operations listed at 40 CFR § 433.10(a).

Playground. An active recreational area with a variety of facilities including equipment for younger children as well as court games.

Plot plan. A plan of a lot, drawn to scale, showing the actual measurements, the size and location of any existing structures or structures to be erected, the location of the lot in relation to abutting streets, driveways, above and below grade structures, and other such information.

Porch. A roofed open structure that projects from the front, side or rear wall of a building. For the purposes of this Zoning Code, an enclosed porch shall be considered part of the principal building.

Potable water. Water that is satisfactory for drinking, culinary and domestic purposes, meeting current drinking water standards.

Prohibited. Any use, tree, material, sign, feature, action, object, structure, or item identified in this Zoning Ordinance as "prohibited" is banned and shall only be permitted upon amendment of this Zoning Ordinance, as provided for in Section 150.125.6, Amendments to Text.

Project boundary. The boundary defining the tract(s) of land that is included in a proposed development to meet the minimum required project area for a planned development or multi-family development. The term "project boundary" shall also mean "development boundary".

Property. For the purposes of Section 150.345, Historic Overlay Districts, a zoning lot together with all buildings and structures thereon.

Protective care facility. A facility owned or operated by an agency or an individual authorized by the appropriate governmental licensing agency to provide housing, food, treatment or supportive services to: persons who have been assigned by a court to a protective environment in lieu of placement in a correctional institution; to individuals who have been institutionalized and released from the criminal justice system; or to individuals who have alcohol or drug problems and who require the protection of a supervised group setting.

Public. Belonging or open to, enjoyed and used by and/or maintained for the public generally, but not limited to a facility the control of which is wholly or partially exercised by some governmental agency.

Public hearing. An official meeting called by City Commission, the Plan Board, or the Board of Zoning Appeals, duly noticed, which is intended to inform and obtain public comment or testimony, prior to the governing body rendering a decision.

Public safety facility. A government facility for public safety and emergency services, including a facility that provides police or fire protection and related administrative facilities.

Railroad yard. An open area or warehouse used for the storage and repair of locomotive engines, railway cars, or other vehicles designed to operate on rails.

Recessed ceiling fixture. An outdoor lighting fixture recessed into a canopy ceiling so that the bottom of the fixture is flush with the ceiling.

Recharge lagoon. A body of water designed and maintained by man to add water to the groundwater at a rate greater than that occurring naturally.

Recreation facility, indoor. A facility primarily used for the indoor conduct of, or participation in, recreational activities, and secondarily for the viewing of such activities. This term includes, but is not limited to, an indoor driving range, volleyball court, bowling alley, ice or roller skating rink, billiard hall, video game center, archery or shooting range, soccer field or basketball court. This term does not include a sports facility, health club, or private golf/swim/tennis club.

Recreation facility, outdoor. A facility primarily used for the outdoor conduct of, or participation in, recreational activities, and secondarily for the viewing of such activities. Such a facility may include one or more structures. This term includes, but is not limited to, a golf or mini-golf course/facility, tennis, basketball or volleyball court, soccer, baseball or football field, or amusement or water park. This term does not include a sports facility, health club, or private golf/swim/tennis club.

Recreational vehicle/equipment. A vehicular-type portable structure without a permanent foundation that can be towed, hauled, or driven and primarily designed, by the manufacturer, as temporary living accommodation for recreational, camping, and travel use. For the purposes of this Code, recreational vehicle/equipment shall include a recreational vehicle, boat, boat trailer, pick-up truck camper, snow mobile, folding tent trailer, or other camping and recreational equipment as determined by the Zoning Administrator, and any trailer that may be used to convey such a vehicle or equipment.

Recycling collection facility.

(a) **Large collection facility**. A center for the acceptance by donation, redemption, or purchase of recyclable materials from the public occupying an area of more than 1000 square feet, which may or may not include permanent structures.

(b) **Small collection facility**. A center or facility for the acceptance by donation, redemption, or purchase of recyclable materials from the public occupying an area of not more than 1000 square feet.

This facility shall not include solid waste composting facilities.

Recycling processing facility, indoor. A facility where recyclable materials are sorted and temporarily stored prior to shipment for remanufacture into new materials. All activities related to this facility shall take place in principal or accessory buildings. This facility shall not include salvage yards, or solid waste composting facilities.

Recycling processing facility, outdoor. A lot or parcel of land, with or without buildings, upon which used materials are separated and processed for shipment for eventual reuse in new products. This facility shall not include salvage yards, or solid waste composting facilities.

Regulated Substance Activity Inventory Report (RSAIR). A report submitted for a zoning lot in the Source Water Protection Area that includes the Owner and/or operator's contact information and provides details on the types and amounts of Regulated Substances handled on the zoning lot.

Regulated substances. Substances that pose health hazards. Regulated Substances include, but are not limited to, the following:

(a) Hazardous substances as defined in § 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601, and in any regulations issued under such Act;

(b) Any source material, special nuclear material, or byproduct material as defined in the Atomic Energy Act, 42 U.S.C. § 2011 *et seq*., and in any regulations issued under such Act;

(c) Substances listed by the U.S. Environmental Protection Agency as "extremely hazardous substances," "hazardous chemicals," or "toxic chemicals" pursuant to the Emergency Planning and Community Right-To-Know Act, 42 U.S.C. § 11001 *et seq.* or pursuant to any regulations issued under such Act;

(d) Chemical substances and mixtures for which the U.S. Environmental Protection Agency has concluded, pursuant to § 5 Toxic Substances Control Act, 15 U.S.C. § 2605 (or regulations issued under said Act), that the manufacture, processing, distribution, use, or disposal thereof presents or will present an unreasonable risk of injury to health or the environment;

(e) Substances that are active ingredients in any pesticide regulated under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136 *et seq.;*

(f) Petroleum (including crude oil or any fraction thereof), natural gas, natural gas liquids, liquefied natural gas, or synthetic gas useable for fuel;

(g) Substances promulgated under the of the 1996 Safe Drinking Water Act Amendments Unregulated Contaminant Monitoring Program and/or the Contaminants Candidate List;

(h) Substances for which the manufacturer or importer has prepared a Safety Data Sheet (SDS) or Globally Harmonized System of Classification and Labeling Chemicals (GHS) pursuant to 29 C.F.R. § 1910.1200; and

(i) Mixtures containing any of the foregoing at a concentration greater than one percent (1%) of the mixture, or where the total of all carcinogenic ingredients constitute one tenth of one percent (0.1%) of the mixture.

Rehabilitation. To restore to a condition for constructive activity in keeping with the style of architecture of the structure.

Religious assembly. See Church.

Research/development facility, laboratory. A building or group of buildings used for scientific research, investigation, testing or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

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:

(a) A residential facility that provides the services listed above for five (5) or fewer developmentally disabled persons and/or foster children.

(b) A residential facility that provides the services listed above for six (6) to eight (8) developmentally disabled persons and/or foster children.

(c) A residential facility that provides the services listed above for nine (9) to sixteen (16) developmentally disabled persons and/or foster children.

Residential/mixed use. See Mixed use/residential.

Residential/work uses.

(a) **Home occupation**. A business, profession, occupation, or trade conducted for gain or support entirely within a dwelling unit, carried on by one or more persons, all but one of whom are required to be residents of the household. A home occupation is clearly accessory and secondary to the use of the dwelling unit for residential purposes and does not change the character thereof or adversely affect the uses permitted in the zoning district of which it is a part.

(b) **Live-work unit.** A room or rooms used by a single household both as a dwelling unit and as a work space (as defined herein) where such work space occupies less than 50% of the unit's gross floor area. The dwelling unit of a live-work unit shall contain a kitchen area and sanitary facilities.

(c) **Work-live unit.** A room or rooms used by a single household both as a dwelling unit and as a work space (as defined herein) where such work space occupies 50% or more of the unit's gross floor area. The dwelling unit of a work-live unit shall contain a kitchen area and sanitary facilities.

(d) **Work space.** An area within a live-work or work-live unit that is designed or equipped exclusively or principally for the conduct of work activities and is to be regularly used for such work activities by one or more occupants of the unit.

Restaurant, indoor dining. An establishment where food and/or drink are prepared, served, and consumed within the principal building. This term shall include a "Brewpub," but it shall not include a "Microbottler."

Restaurant, outdoor dining. An establishment where food and drink are prepared inside the establishment and consumed outside the principal building in an area adjacent to the principal building.

Restoration. The act of bringing back a property to a former condition, such as a house museum, to the time period of a famous resident.

Retail establishment. An establishment engaged in the selling or renting of goods or merchandise to the general public for personal or household consumption, and rendering services incidental to the sale of such products. Such an establishment is open to the general public during regular business hours and has display areas that are designed and laid out to attract the general public. In determining a use to be a retail use, the proportion of display area vs. storage area and the proportion of the building facade devoted to display windows may be considered. This term does not include any adult entertainment uses. This term includes, but is not limited to, artist's studios, dry cleaning establishments, laundromats, portrait studios, and bakeries.

Riding stable. Establishments where horses are boarded and cared for and where customers ride, jump, and show horses. Horses may be hired for riding as well.

Right-of-way. A strip of land or the air space above it taken, dedicated, or otherwise recorded as an irrevocable right-of-passage for use as a public way. In addition to the roadway, it normally incorporates the curbs, lawn strips, sidewalks, water and sewer lines, lighting, and drainage facilities, and may include special features (required by the topography or treatment) such as grade separation, landscaped areas, viaducts, and bridges and the air space above the surface.

Right-of-way line. The line between a lot, tract, or parcel of land and a contiguous public street, and demarcating the public right-of-way. "Right-of-way line" also means "street line."

Safety Data Sheet (SDS). Document containing information about the characteristics and actual or potential hazards of a substance as required pursuant to 29 C.F.R. § 1910.1200.

Salvage yard. See junkyard.

Sand, limestone, shale, clay, dirt and gravel operations. A surface mine or excavation used for the removal of sand, limestone, shale, clay, gravel, or fill dirt for sale or for use off-site.

Sanitary waste facility. See Waste facility, sanitary.

School (public/private) college/university. An educational institution authorized by the State of Ohio to award associates or higher degrees.

School (public/private) elementary/secondary. Publicly or privately owned facilities providing full-time day instruction and training at the elementary, junior high and high school levels, licensed by the State of Ohio, in accordance with the requirements of Chapter 3313 of the Ohio Revised Code, or facilities providing kindergarten or nursery school training and care whose annual sessions do not exceed the school sessions for full-time day schools and which are operated by a board of education or an established religious organization.

School, specialty/personal instruction. A facility primarily teaching usable skills that prepare students for jobs within a specific trade or a facility or providing instruction on social and religious customs and activities, performing arts and/or sports. Such facilities may include beauty schools, dance instruction centers, cooking schools and martial arts studios. This term does not include health club.

Seasonal market. A temporary facility used to conduct retail trade for a period not exceeding 90 days in a calendar year.

Self-storage facility, indoor. Self-service storage facility or mini-warehouse means a facility consisting of a building or group of buildings in a controlled access compound that contains varying sizes of individual, compartmentalized and controlled-access stalls or lockers for the dead storage of customers' residential goods or wares.

Service establishment, business. An establishment providing services to business establishments on a fee or contract basis, including, but not limited to, advertising services, business equipment and furniture sales or rental or protective services. This term includes, but is not limited to, an employment agency, photocopy center, commercial photography studio or mailing service. This term does not include maintenance, repair and office uses such as accounting, advertising, architectural design, city planning, environmental analysis, insurance, interior design, investment, landscape design, law, management consulting, title research and real estate.

Service establishment, personal. An establishment providing services that are of a recurring and personal nature to individuals. This term includes, but is not limited to, a barber shop, beauty salon, shoe repair shop, seamstress, tailor, fortune teller, tanning salon, massage establishment, body piercing establishment or tattoo establishment. This term does not include a portrait studio, dry cleaning establishment, laundromat, photocopy center, health club or repair shop for household items.

Setback. Setback means the required minimum horizontal distance between a lot line or the proposed thoroughfare line shown on the Official Thoroughfare Plan, whichever is more restrictive and a building, surface parking lot or structure as established by this Zoning Code.

Setback line. A line established by this Zoning Code generally parallel with and measured from the lot line or the proposed thoroughfare line shown on the Official Thoroughfare Plan whichever is more restrictive, defining the minimum distance a building, structure, parking area or outdoor

storage area shall be located from the said lot or thoroughfare line, except as may be provided in this Zoning Code.

Sewage/liquid waste treatment facility. See Waste treatment facility, sewage/liquid.

Shade tree. A tree with foliage that usually sheds annually and is planted primarily for its high crown of foliage or overhead canopy.

Shrub. A woody plant, smaller than a tree, consisting of several small stems from the ground or small branches near the ground.

Sign. Any visual communication display, object, device, graphic, structure or part, situated indoors or outdoors, or attached to, painted on, or displayed from a building, vehicle, or structure in order to direct or attract attention to, or announce or promote, an object, product, place, activity, person, ideology, institution, organization, business or the like, by means of letters, words, models, banners, flags, pennants, insignia, devices, designs, colors, symbols, fixtures, images, illuminations or representations used as, or which is in the nature of, an announcement, direction, advertisement or other message. The following are types of signs and/or definitions of terms found in 150.900, Sign Regulations and shall only define terms in Section 150.900:

(a) **Architectural feature.** Any construction attending to, but not an integral part of, the sign, which may consist of landscape, building, or structural forms that enhance the site in general; also, graphic stripes and other architectural painting techniques applied to a structure that serves a functional purpose, or when the stripes or other painting techniques are applied to a building provided such treatment does not include lettering, logos or pictures related to the intended message of the sign.

(b) **Building wall.** Any vertical surface of a building or structure (other than a pitched roof) that is integral to, and could reasonably be constructed as a part of, the architecture of the building when signage is not being contemplated. Examples of building walls include, but are not limited to: awnings, canopies, marquees, vertical portions of gable roofs, parapets, mechanical penthouses, etc.

(c) **Deteriorated.** Showing signs of weathering, rust, corrosion, exposed wiring, chipped paint or faces, cracked, broken, torn, or missing faces, or loose materials, and/or any other evidence of disrepair.

(d) **Flag.** A piece of cloth or similar material, anchored along one side, displayed from a single pole, either freestanding or attached to a building used in a manner consistent with the definition of a sign.

(e) **Parcel.** The area of land necessary for a use to be in compliance with the City of Dayton Zoning Code. The terms “lot” or “tract” may also be referring to a parcel, set of consolidated parcels or a portion of a parcel.

(f) **Sign, abandoned.** A sign that is deteriorated (as defined herein), obsolete, fallen into disuse, or the use for which it is accessory is no longer in existence, or is not adequately maintained, repaired, or removed within the time as ordered by this Zoning Code and/or for which no legal owner can be found.

(g) **Sign, area.** To determine sign area, see 150.900.3.

(h) **Sign, address**. Any building sign or freestanding sign indicating only the street number of the building or use.

(i) **Sign, animated.** Any sign that uses flashing lights or movement of the entire sign or portion thereof to depict action or create a special effect or scene.

(j) **Sign, awning or canopy.** Any building sign that is painted on, or otherwise attached to, an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance or window.

(k) **Sign, banner.** Any sign made of lightweight fabric or similar material with no enclosing framework that is mounted to a building or other structure at one or more edges.

(l) **Sign, billboard or off-premise sign.** Any sign structure advertising an establishment, merchandise, event, service, or entertainment that is not sold, produced, manufactured or furnished at the property on which the sign is located.

(m) **Sign, building**. Any sign attached to any part of a building including wall, awning, canopy, marquee, and projecting signs.

(n) **Sign, canopy**. See Sign, awning.

(o) **Sign, changeable copy.** Any portion of a sign with letters, characters or graphics that are not permanently affixed to the structure, framing or background, allowing the letters, characters or graphics to be periodically modified, manually, mechanically or electronically, such as a bulletin board or electronic message center.

(p) **Sign, entrance or exit.** Any sign situated so as to promote safe traffic circulation by indicating appropriate places of ingress and egress.

(q) **Sign face**. The space or surface of a sign intended to contain the message.

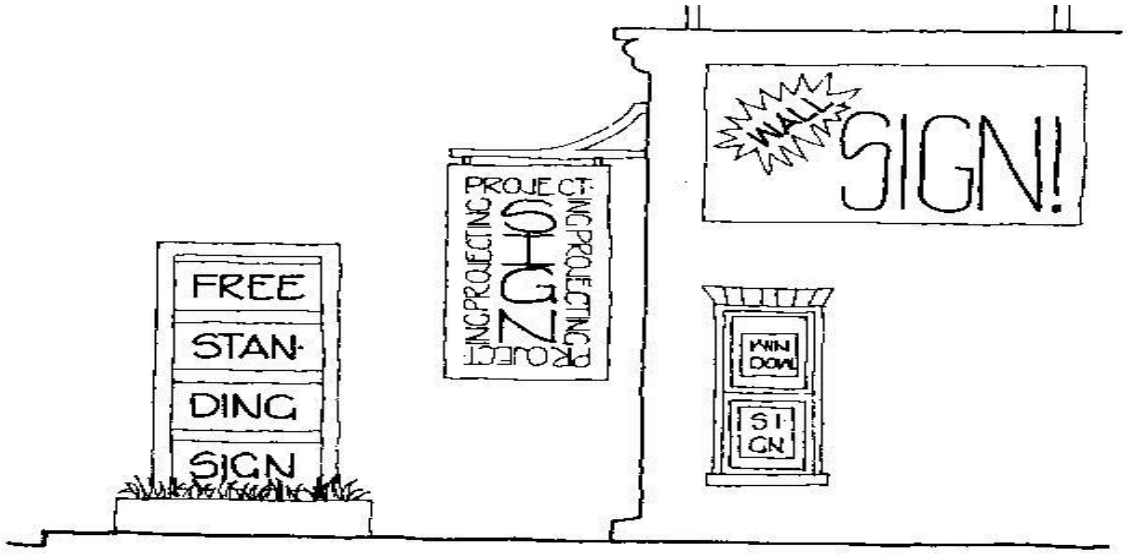
(r) **Sign, flashing.** Any sign that contains an intermittent or sequential flashing light source used primarily to attract attention.

(s) **Sign, freestanding.** Any sign supported from the ground and not attached to any building. A freestanding sign may be supported by a single pole, two poles, a pylon or a solid base. See Figure 6.

Figure 6

Illustration of Types of Signs

(Illustration from A Planners Dictionary. Edited by Michael Davidson and Fay Dolnick)



(a) **Sign height.** Sign height is measured from the elevation of the sidewalk or edge of the public right-of-way immediately adjacent, or nearest, to the sign structure, to the highest point of the sign, its frame, or decorative features.

(b) **Sign, illuminated.** Any sign incorporating an internal or external artificial light source for the purpose of illuminating the message of the sign.

(c) **Sign, inflatable.** Any device that is capable of being expanded by any gas. This definition includes balloons tethered to the ground.

(d) **Sign, off-premise.** See Billboard.

(e) **Sign, pedestrian**. A sign near or at street/sidewalk level that is oriented and scaled to the pedestrian, rather than the motorist.

(f) **Sign, portable.** Any sign that is designed to be transported on wheels, skids, a bench, runners, brackets or has a frame to which wheels, skids, runners, brackets or similar mechanical devices are or can be attached. A portable sign also includes mobile signs such as parked vehicles or trailers, when such vehicles are visible from the public right-of-way unless such vehicle is regularly used in the normal daily operations of the attendant business, organization or institution.

(g) **Sign, projecting.** Any sign that is attached to a building wall and that extends away from (i.e., is not parallel to) the building wall or any sign suspended beneath a canopy, ceiling, roof, or marquee, intended to be viewed by pedestrians from the sidewalk beneath the canopy, ceiling, roof, or marquee. See Figure 6.

(h) **Sign, roof.** Any sign, or portion thereof, erected, constructed or projecting upon or over the roof or parapet wall of any building whether the principal support for the sign is on the roof, wall or any other structural element of the building. An off-premise sign shall not be considered a roof sign.

(bb) **Sign, temporary.** 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.

(cc) **Sign, wall.** 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. See Figure 6. A wall sign shall not be considered a wallscape.

(dd) **Sign, window.** Any sign that is applied to the interior or exterior of a window or door, or a sign located near a window or door within a building, for the purpose of being visible and read from the outside of the building. This term does not include signs that are not legible from a distance of more than three (3) feet beyond the building on which such sign is located. See Figure 6.

(ee) **Wallscape.** 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.

Significant properties. See 150.345.8.

Single housekeeping unit. A living arrangement 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.

Single room occupancy. A housing type consisting of one room, often with cooking facilities and with private or shared bathroom facilities. This term shall not include hotels/motels or bed and breakfast establishments. See "Transitional housing."

Site design plan. A plan prepared to scale accurately showing, with complete dimensions, the boundaries of the site, the location of buildings; landscaping; parking areas; access drives; signs; outdoor storage areas; above and below ground structures; and any other features that comprise a proposed development.

Solar energy structure. A device that is not affixed to the roof plane of a building or against the side of a building and is designed for the collection of energy from the sun.

Solar panel, building. A device affixed to the roof plane of a building or against the side of a building that is designed for the collection of energy from the sun.

Solid waste composting facility. A Class I, II, III, or IV solid waste composting facility licensed by the State of Ohio and as further defined under OAC 3745.

Solid waste composting facility, Class IV. A facility licensed by the State of Ohio where the owner or operator shall accept only yard waste, bulking agents, and additives limited to urea and bacterial or fungal inoculum.

Sorority. A building used as group living quarters for members of a general or local chapter of a regularly organized college sorority.

Source Water Protection Area (SWPA). The Source Water Protection Area (SWPA) is comprised of two Source Water Protection Districts: the Well Head Operation (WO) District, and the Water Protection Overlay (WP) District.

Spill Prevention and Response Plan. A plan that describes how Regulated Substances will be handled at the site. In addition to a site diagram, the plan includes but is not limited to a description of the storage, use, employee training, engineering controls, spill response equipment, emergency response plan, spill cleanup, disposal and reporting for the Regulated Substances.

Sports facility. A place designed and equipped primarily for observation of sports, leisure time activities and other customary and usual recreational activities. Such a facility is typified by temporal peaks in vehicle trip generation. This term includes, but is not limited to, a stadium, ballpark or arena.

Street, public. An avenue, highway, road, thoroughfare, boulevard, parkway or other way proposed for vehicular traffic, and any existing State, County, or City street or way shown upon a plat heretofore duly approved, filed and recorded in the office of the County Recorder that has been dedicated or deeded to the public for public use and which affords principal access to abutting property. Included is the land between the street right-of-way lines, whether improved or unimproved, and may comprise pavement, shoulder, gutters, sidewalks, division strips or other areas within the street lines. Does not include roadways defined as alleys by this Zoning Code.

Streetscape. Adjacent block faces that face each other.

Structure. Anything constructed or erected that requires a fixed location on the ground or attachment to something having a fixed location on the ground including, but not limited to, buildings, walls, sheds, gazebos, signs, patios, platforms, paving or fences.

Structural alteration. Any change or rearrangement in the supporting members of a building, such as beams, girders, bearing walls, columns or partitions or any increase in the area or cubical contents of the building.

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.

Technically suitable. The location of a wireless telecommunication antenna that reasonably serves the purpose for which it is intended within the band width of frequencies for which the owner or operator of the antenna has been licensed by the Federal Communications Commission (FCC) to operate without a significant loss of communication capability within developed areas of the City.

Telecommunication facility. See Wireless Telecommunication Facility.

Telecommunications. The technology that enables information to be exchanged through the transmission of voice, video or data signals by means of electrical or electromagnetic systems.

Theater, drive-in/outdoor. An open lot devoted to the showing of motion pictures or theatrical productions on a paid admission basis to patrons seated in automobiles.

Theater, indoor. A building or part of a building devoted to showing motion pictures or for dramatic, dance, musical, or other live performances.

Total Maximum Daily Inventory (TMDI). A value, in pounds, that is established as the largest quantity of Regulated Substances that a zoning lot is permitted to handle at any one time, not including Regulated Substances that are excluded or exempted pursuant to Chapter 53 of the R.C.G.O. and/or the Zoning Code.

Transit garage. A facility for housing and repairing transit vehicles, such as buses.

Transit station. A facility for passenger transportation operations, including but not limited to a passenger rail station, bus station, or passenger ship terminal. This term shall not include an airport or heliport.

Transit turnaround. A facility where transit vehicles, such as buses, turnaround in order to repeat their route.

Transition line. A horizontal line that extends the full width of a façade expressed by: (1) a change in building materials; (2) by a trim line; and, (3) a continuous balcony a maximum of 2.5 feet deep.

Transitional housing. A facility managed by a public or nonprofit agency that provides housing for up to twenty-four (24) months as well as supportive services, such as job training, health care, child care, counseling, and living skills training to victims of economic hardship, abuse or neglect. This term shall include Single Room Occupancy facilities.

Tree, major. See Major tree.

Tree, shade. See Shade tree.

Trucking/motor freight terminal. A building or area in which freight brought by truck is assembled and/or stored for routing in intrastate and interstate shipment by truck or in which semi-trailers, including tractor and/or trailer units, and other trucks are parked or stored. This term includes moving and storage establishments.

Underground storage tank. One or any combination of tanks, including the underground pipes connected thereto, that are used to contain an accumulation of Regulated Substances the volume of which, including the volume of underground pipes connected thereto, is ten percent or more beneath the surface of the ground. The term Underground Storage Tank does not include any of the following:

(a) Pipeline facilities, including gathering lines, regulated under the "Natural Gas Pipeline Safety Act of 1968", 82 Stat. 720, 49 U.S.C.A. 2001, as amended.

(b) Surface impoundments, pits, ponds, or lagoons;

(c) Storm or waste water collection systems;

(d) Flow-through process tanks;

(e) Storage tanks located in underground areas when the tanks are located on or above the surface of the floor and the integrity of the tank is periodically visually evaluated;

(f) Septic tanks;

(g) Tanks used for storing heating fuel for consumptive use on the premises where stored provided the premises are single- or two-family residences.

Uplighting. Any light source that distributes illumination above a 90-degree horizontal plane.

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

Use. The purpose for which land, a building or structure is arranged, designed, intended, maintained or occupied; or any occupation, activity or operation carried on in a building or structure or on land.

(a) **Use, accessory.** A use located on the same zoning lot with the principal use of building or land, but incidental and subordinate to the principal use of the building or land.

(b) **Use, conditional.** A use permitted in a district, other than a principal use permitted by right, which is allowed only under certain conditions as set forth in Chapter 150.500, and which requires a conditional use and approval by the Board of Zoning Appeals, in accordance with the standards and procedures set forth in Chapter 150.500, Conditional Use and Specific Use Regulations.

(c) **Use, permitted.** A use that is authorized by this Zoning Code as either a use permitted by right, a conditional use or an accessory use.

(d) **Use permitted by right.** A permitted use that is approved administratively when it complies with the standards and requirements set forth in the Zoning Code, the approval of which does not require a public hearing.

(e) **Use, principal.** The primary or main use or activity of a building or lot.

(f) **Use, prohibited.** A use identified in this Zoning Code as a prohibited use is banned from that zoning district(s) and shall only be permitted upon amendment of this Zoning Code, as provided for in Section 150.125.6, Amendments to Text.

(g) **Use, temporary.** A use that is established for a fixed period of time with the intent to discontinue such use upon the expiration of such time and does not involve the construction or alteration of any permanent structure.

Utility box. An above-ground, sealed metal or plastic container used to house transformers, switches, connections and wiring for cable television, Internet, broadband, video ready access devices, telephone or similar services, and other electrical or electronic devices and wiring needed to distribute a utility service to a property, neighborhoods and businesses, and similar devices, excluding the following:

(a) Utility boxes that are attached to the principal structure on a lot and do not face a public street, excluding alleys.

(b) Utility boxes that are traffic signal control boxes.

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.

Utility substation/distribution facility, indoor. A facility contained entirely within a building, which performs either of the following functions:

(a) Aids in the transmission or distribution of gas, electricity, steam or water, or landline telephone communications.

(b) Is used as a distribution center, including but not limited to a water pumping station, water reservoir, transformer station, landline telephone exchange, or building for radio, television, but not including a yard or building for storage, maintenance or repair service.

Utility substation/distribution facility, outdoor. A facility, other than a transmission tower and not contained entirely within a building, which performs either of the following functions:

(a) Aids in the transmission or distribution of gas, electricity, steam, water, or landline telephone communications.

(b) Is used as a distribution center, including but not limited to a transformer station, landline telephone exchange, or building for radio, television.

Variance. A grant by the Board of Zoning Appeals or the Zoning Administrator to a property owner authorizing the property owner to vary from the literal terms of the relevant regulations.

Vehicle fueling station. (See also Automobile Service Station): An establishment where fuels used to power vehicles are stored and dispensed into vehicles by an attendant or by persons other than the station attendant and may include accessory facilities available for the sale of other retail products. The term "fuels" shall include but not be limited to gasoline, diesel, pure methanol, ethanol, and other alcohols; blends of 85% or more of alcohol with gasoline; natural gas and liquid fuels domestically produced from natural gas; liquefied petroleum gas (propane); coal-derived liquid fuels; hydrogen; electricity; pure biodiesel (B100); fuels, other than alcohol, derived from biological materials; and P-Series fuels.

Wall mural. Any pictorial or graphic representation on an outside wall, facade, or other surface of a building or structure other than a sign structure, containing thirty-two (32) or more square feet of surface area and not constituting a sign as defined by Section 150.900.2 (F).

Wallscape. See sign.

Warehouse storage, indoor. A building used for the indoor storage of goods and materials.

Waste facility, construction and demolition. An engineered facility for the disposal of those materials resulting from the alteration, construction, destruction, rehabilitation, or repair of any manmade physical structure including, but not limited to, houses, buildings, industrial or commercial facilities, or roadways. Excluded from said facility shall be materials identified or listed as solid waste and hazardous waste in Chapter 3734 of the Ohio Revised Code and rules adopted under it; exceptions granted by the Chief Building Official pursuant Section 1307.2.4 of Article 13 of the Unified Building Code as adopted by Section 153.01 of the Revised Code of General Ordinances; and any construction site where a building permit has been issued or final subdivision plat has been approved and where construction debris, trees and brush removed in clearing the site are used as fill material on the site where the materials are generated or removed and does not include any site where materials composed exclusively of concrete, asphalt, clay tile, building or paving brick, or building or paving stone are used as fill, either alone or in conjunction with clean soil, sand, gravel, or other clean aggregates, in legitimate fill operations for construction purposes.

Waste facility, hazardous. A development that is an engineered facility for processing or the final deposition of hazardous, infectious, and/or friable asbestos waste, as defined in the most current version of Chapter 3734 of the Ohio Revised Code and rules adopted under it and which are subject to local zoning controls and do not require a permit from the Hazardous Waste Facility Board, on or into the ground or structure and includes, but is not limited to, areas of waste placement, all ground water monitoring/control system structures, buildings, ingress and egress points and driveways or roads, explosive gas monitoring/control/extraction system structures, surface water run-on and runoff control structures, sedimentation pond(s), liner systems, leachate management system structures, and buffer areas.

Waste facility, sanitary. An engineered facility where the final disposition of solid waste on or into the ground or structure occurs, as defined in the most current version of Chapter 3734 of the Ohio Revised Code and rules adopted under it. These facilities may include areas of waste placement, all ground water monitoring/control system structures, buildings, ingress and egress points and driveways or roads, explosive gas monitoring/control/extraction system structures, surface water run-on and runoff control structures, sedimentation pond(s), liner systems, leachate management system structures, and buffer areas.

Waste treatment facility, sewage/liquid. A municipal facility that operates a sewerage system and sewage treatment facilities that collect, treat, and dispose of human waste.

Water supply/treatment facility. An establishment engaged in operating a water treatment plant or operating a water supply system. The water supply system may include pumping stations, aqueducts or distribution mains.

Well, dry. See dry well.

Well field. A tract of land that contains a number of wells for supplying water.

Well, underground injection. See Class I, II, III, IV, and VI underground injection wells.

Wholesale sales and/or distribution, indoor. Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; to other wholesalers; or acting as agents or brokers and buying

merchandise for, or selling merchandise to, such companies. All such activities take place inside principal or accessory buildings.

Wholesale sales and/or distribution, outdoor. Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such companies. Such activities may take place outside of the principal or accessory buildings.

Wind turbine. A device used for the collection of energy from wind that has a rotor diameter of four (4) feet or more.

Windmill, micro. A device used for the collection of energy from wind that has a rotor diameter of less than four (4) feet.

Wireless telecommunications antenna. The physical device through which electromagnetic, wireless telecommunications signals authorized by the Federal Communication Commission (FCC) are transmitted or received. Antennas used by amateur radio operators are excluded from this definition.

Wireless telecommunications facility. A facility consisting of the equipment and structures involved in receiving telecommunications or radio signals from a mobile radio communications source and transmitting those signals to a central switching computer which connects the mobile unit with the land-based telephone lines.

Wireless telecommunications tower. A structure intended to support equipment used to transmit and/or receive telecommunications signals including monopoles, guyed and lattice construction steel structures.

Work-live unit. See Residential/work use.

Yard. An open space on the same lot with a principal building or structure extending between the lot line and the extreme front, rear or side wall of the main building or structure.

(a) **Yard, corner side.** On a corner lot, the yard between the principal building and the side lot line adjacent to the street and extending from the front yard to the rear lot line.

(b) **Yard, front.** The area across the full width of the lot between the front of the principal building and the front line of the lot.

(c) **Yard, rear.** The area across the full width of the lot between the rear of the principal building and the rear line of the lot.

(d) **Yard, side.** The area between the main building and the side line of the lot extending from the front wall to the rear wall of the main building.

Zoning Administrator. The individual designated to administer the Zoning Code of the City of Dayton, Ohio. A person designated by the Zoning Administrator may also perform duties of the Zoning Administrator.

Zoning Certificate. A document issued by the Zoning Administrator authorizing the construction or alteration of a building or structure and/or use of a lot or structure in accordance with this Zoning Code.

Zoning Code. See Zoning Ordinance.

Zoning lot. See Lot, zoning.

Zoning Map. An accurate map depicting the City of Dayton, Ohio, and indicating the boundaries of the zoning districts established by this Zoning Code.

Zoning Ordinance. The written regulations contained in R.C.G.O. 150. May also be referred to as the Zoning Code. (Ord. 30515-05, passed 12-28-05; amend Ord. 30643-07, passed 3-21-07; amend Ord. 30762-08, passed 7-16-08; amend Ord. 30893-09, passed 7-15-09; amend Ord. 31028-10, passed 10-20-10; amend Ord. 31142-11, passed 12-21-11; amend Ord. 31283-13, passed 12-18-13; amend Ord. 31426-15, passed 7-29-15; amend Ord. 31490-16, passed 5-04-16; amend Ord. 31574-17, passed 7-05-17, amend Ord. 31738-19, passed 5-29-19; amend Ord. 31752-19, passed 9-4-19)

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Section 150.300
Districts Established: Map and Boundaries

§150.300.1 Districts Established
§150.300.2 Use Regulations
§150.300.3 Official Zoning Map
§150.300.4 Interpretation of District Boundaries
§150.300.5 Property Not Included; Annexation or Consolidation
§150.300.6 Urban Renewal Project Areas and Land Use Regulations

150.300.1 Districts Established

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

(A) Residential Districts

SR-1 Suburban Single-Family District
SR-2 Suburban Single-Family District
ER-3 Eclectic Single-Family District
ER-4 Eclectic Single-Family District
MR-5 Mature Single-Family District

SMF Suburban Multi-Family District
EMF Eclectic Multi-Family District
MMF Mature Multi-Family District

MH Manufactured Home District

(B) Business Districts

UBD Urban Business District
CBD Central Business District

MNC Mature Neighborhood Commercial District
ENC Eclectic Neighborhood Commercial District
SNC Suburban Neighborhood Commercial District
MGC Mature General Commercial District
EGC Eclectic General Commercial District
SGC Suburban General Commercial District

T Transitional District
MX Mixed Use Hub District

(C) Industrial Districts

I-1 Light Industrial District

I-2 General Industrial District
BP Business Park District

(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 Overlay District

UP Urban Preservation Overlay District

WO Well Head Operation District
WP Water Protection Overlay District

OS Park/Open Space District (Ord. 30515-05, passed 12-28-05, amend Ord. 30948-09, passed 12-16-09; amend Ord. 31426-15, passed 7-29-15; amend Ord. 31490-16, passed 5-04-16)

150.300.2 Use Regulations

The use regulations for the Districts established in sub-section 150.300.1 are found in Sections 150.305-150.365. For the purposes of this Zoning Code, the abbreviations found in Sections 150.305-150.365 shall mean the following:

(A) Permitted Uses

(1) Uses Permitted by Right. A use listed in a Permitted Uses Schedule with a "P" is permitted by right as a principal use in the applicable district, provided that all requirements of this Zoning Ordinance and other applicable city ordinances have been met.

(2) Uses Permitted by Right with Supplementary Regulations. A use listed in a Permitted Uses Schedule with a **P*** is also permitted by right as a principal use, if the use complies with the regulations in Section 150.500, Conditional Use and Specific Use Regulations. However, the characteristics of these uses require development standards that are unique to the specific use, and these standards are not common to the uses generally permitted in the District. Therefore, in addition to the applicable regulations found in each Section, these uses must also comply with the regulations in Section 150.500, all other requirements of this Zoning Ordinance and other applicable City ordinances. If the use cannot comply with the regulations in Section 150.500, then the use and any deviation from the required standards shall be considered as a conditional use that

must comply with the procedures set forth in Section 150.500, Conditional Use and Specific Use Regulations, in order to be established.

(3) Conditional Uses. A use listed in a Permitted Use Schedule is permitted as a conditional use in a District when denoted by the letter "C", provided the Board of Zoning Appeals first makes the determination that the requirements of Section 150.500 have been met, according to the procedures set forth in Section 150.500, Conditional Use and Specific Use Regulations.

(4) Accessory Uses. A use listed in a Permitted Use Schedule shall be permitted as an accessory use when denoted by the letter "A". Such use shall be permitted as a subordinate building or use when it is clearly incidental to and located on the same zoning lot as the principal building or use. A use not listed in a Permitted Use Schedule may also be a permitted accessory use provided that is clearly incidental and subordinate to a use listed in a Permitted Use Schedule, as determined by the Zoning Administrator, provided that the requirements of all other City Ordinances and this Zoning Code have been met.

(B) Use Not Listed in Schedule. With the exception of prohibited uses, any use not specifically listed as a permitted principal, or conditional use shall not be a permitted use in these zoning districts and shall only be permitted:

(1) Upon amendment of this Ordinance and/or the Zoning Map as provided in Section 150.125, Amendments;

(2) Upon a finding by the Zoning Administrator, that a use is substantially similar to a principally permitted or conditionally permitted use in the district. If the Zoning Administrator determines that the proposed use is similar to a listed conditional use, it shall only be permitted when it is further approved according to the procedures in Section 150.500, Conditional Use and Specific Use Regulations or;

(3) By action of the BZA in accordance with Section 150.120.10(D)(2).

(C) Establishing a Permitted or Conditional Use. A permitted principal, conditional or accessory use or a use denoted with a P* in a particular zoning district shall not be approved on a parcel unless it can be located thereon in full compliance with all of the standards and other regulations of this Ordinance applicable to the specific use and parcel in question.

(D) Prohibited Use. A use identified in this Zoning Ordinance as a prohibited use is banned from that zoning district(s) and shall only be permitted upon amendment of this Zoning Ordinance, as provided for in Section 150.125, Amendments. (Ord. 30515-05, passed 12-28-15; amend Ord. 31738-19, passed 5-29-19)

150.300.3 Official Zoning Map

(A) Those districts established in sub-section 150.300.1 are bounded and defined as shown on the map entitled "Official Zoning District Map" of the City, which

map, together with all notations, references, data, district boundaries and other information shown thereon, are hereby made a part of this Zoning Ordinance.

(B) The Official Zoning District Map shall be and remain on file with the Secretary of the Plan Board.

(C) In addition to those districts established in sub-section 150.300.1, the City Commission, upon a recommendation from the Plan Board, may place on the Official Zoning Map boundaries for hazardous areas, such as areas prone to flooding. (Ord. 30515-05, passed 12-28-05)

150.300.4 Interpretation of District Boundaries

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the Zoning Map, the following rules shall apply:

(A) Where the designation of a boundary line on the zoning map coincides with the location of a street or alley, the centerline of such street or alley shall be construed to be the boundary of such district.

(B) Where the district boundaries do not coincide with the location of streets or alleys, but do coincide with lot lines, such lot lines shall be construed to be the boundary of such district.

(C) Where the district boundaries do not coincide with the location of streets, alleys, or lot lines, the district boundaries shall be determined by the use of the scale shown on the Official Zoning Map pursuant to sub-section 150.300.3, Official Zoning Map.

(D) All streets, alleys, public ways, waterways, and railroad rights-of-way, if not otherwise specifically designated, shall be deemed to be in the same zone as the property immediately abutting upon such streets, alleys, public ways, waterways and railroad rights-of-way.

(E) Where the centerline of a street, alley, public way, waterway, or railroad right-of-way serves as a district boundary, the zoning of such areas, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to the centerline.

(F) Where a district boundary line established in this Zoning Code or as shown on the Zoning Map divides a lot which was in single ownership at the time of enactment of this Ordinance, the use authorized thereon and the other district requirements applying to the most restricted portion of such lot under this Ordinance shall be considered as extending to the entire lot.

(G) Whenever any street, alley or other public way is vacated by official action as provided by law, the zoning district adjoining the each side of such public way shall be automatically extended to the center of such vacation and all areas included in the vacation shall then and henceforth be subject to all regulations of the extended district.

(H) The Board of Zoning Appeals, according to the rules and regulations that it may adopt, shall resolve all uncertainties and disputes concerning the exact location of zoning district boundaries. (Ord. 30515-05, passed 12-28-05)

150.300.5 Property Not Included; Annexation or Consolidation

(A) Territory annexed to or consolidated with the City shall, upon the effective date of such annexation or consolidation, be classified into a zoning district that is most comparable to the zoning that existed prior to annexation or consolidation. The Zoning Administrator, in consultation with the Director of the Department of Planning and Community Development, shall determine this classification.

(B) Territory annexed to or consolidated with the City that is owned by the City and is shown on the approved Airport Master Plan, maintained by the Department of Aviation, shall be classified as AP Airport District.

(C) In accordance with the procedures outlined in Section 150.125, the Plan Board may recommend to the City Commission a different Zoning Map designation for annexed or consolidated territory than originally established by 150.300.5(A) or (B). (Ord. 30515-05, passed 12-28-05; amend Ord. 31738-19, passed 5-29-19)

150.300.6 Urban Renewal Project Areas and Land Use Regulations

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. (amend Ord. 31490-16, passed 5-04-16)

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Section 150.305
Single-Family Residential Districts

§150.305.1 Purposes
§150.305.2 Use Regulations
§150.305.3 Lot and Setback Requirements
§150.305.4 Height Regulations
§150.305.5 Accessory Use Regulations
§150.305.6 Residential Contextual Standards
§150.305.7 Supplemental Regulations for Uses
§150.305.8 Projections into Required Setbacks
§150.305.9 Site Design Plan Review

150.305.1 Purposes

Single-family residential districts (SR-1, SR-2, ER-3, ER-4, and MR-5) and their regulations are established in order to achieve the following purposes:

(A) To provide for orderly growth and development in the City of Dayton.

(B) To reflect and reinforce desired development patterns in existing neighborhoods while accommodating the need for future growth.

(C) To preserve the character of unique neighborhoods by creating separate districts with different densities and development standards.

(D) To regulate the bulk and location of dwellings to maintain privacy, safety and open spaces for each unit appropriate for the various districts.

(E) To provide for proper location of institutions and other community facilities for the general convenience, safety and amenity of residents.

(F) To provide assurances to property owners, developers and neighbors about the limits of what is allowed in a residentially zoned area.

(G) To protect and enhance property values.

To carry out the above purposes and to effectuate the goals and objectives in the City's Comprehensive Plan, it has been determined that the following types of districts are necessary. The specific purposes for these Districts are:

(A) Suburban Single-Family Residential Districts. To promote, preserve and protect residential neighborhoods that are suburban in character. Suburban areas are typically located at the outer periphery of the city, and were generally developed after 1960. Curvilinear streets, cul-de-sacs and attached garages are common. As set forth in the City's Comprehensive Plan, Suburban residential development will adhere to contemporary standards.

(B) Eclectic Single-Family Residential Districts. To promote, preserve and protect residential neighborhoods that have characteristics of both the Suburban and Mature districts. Eclectic areas are generally found between the Suburban and Mature areas, with neighborhoods of varying density. As set forth in the City's Comprehensive Plan, Eclectic residential development will match existing predominant development patterns.

(C) Mature Single-Family Residential Districts. To promote, preserve and protect neighborhoods with traditional urban character. Mature areas are the oldest, close-to-downtown residential areas in the city. Small, dense lots were generally developed before 1920 in a regular grid street pattern. As set forth in the City's Comprehensive Plan, Mature residential development will encourage historic preservation, development similar in character to existing development and well-designed, adaptive reuse of commercial and industrial buildings. (Ord. 30515-05, passed 12-28-05)

150.305.2 Use Regulations.

(A) Permitted Uses. See sub-section 150.300.2, Use Regulations.

(B) Schedule 150.305.2 of Permitted Uses. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09; amend Ord. 31028-10, passed 10-20-10; amend Ord. 31142-11, passed 12-21-11; amend Ord. 31490-16, passed 5-04-16; amend Ord. 31574-17, passed 7-05-17; amend Ord. 31738-19, passed 5-29-19)

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**
(1) Residential					
(a) Single-family dwelling, detached	P	P	P	P	P
(b) Single-family dwelling, detached cluster	PD[1]	PD[1]			
(c) Single-family dwelling, attached	PD[7]	PD[7]	C	C	C
(d) Two-family dwelling	PD	PD	**P***	**P***	**P***
(e) Multi-family dwelling					C[2]
(f) Family day care home for 1-6 children (type B) See sub-section 150.305.7	P	P	P	P	P
(g) Family day care home for 7-12 children (type A)	C	C	C	C	C

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
(2) Group Residential					
(a) Adult care facility for 3-5 persons	P[17]	P[17]	P[17]	P[17]	P[17]
(b) Residential facility for 5 or fewer persons	P[17]	P[17]	P[17]	P[17]	P[17]
(c) Residential facility for 6-8 persons	P[17]	P[17]	P[17]	P[17]	P[17]
(3) Residential/Work					
(a) Home occupation	A[3]	A[3]	A[3]	A[3]	A[3]
(b) Live-work unit			C	C	C
(4) Community Facilities/Institutions					
(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
(5) Educational Facilities					
(a) Day care center, adult or child	C[13]	C[13]	C[13]	C[13]	C[13]
(b) School (public/private), elementary/secondary	C	C	C	C	C
(6) Recreation/Open Space					
(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				

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**
(7) Office/Professional Services					
(a) Office, administrative/ professional			C[2]	C[2]	C[2]
(8) Lodging					
(a) Bed and breakfast	C	C	C	C	C
(9) Other					
(a) Bee keeping	P[14]	P[14]	P[14]	P[14]	P[14]
(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
(f) Wall mural	C[15]	C[15]	C[15]	C[15]	C[15]
(10) Accessory Uses					
(a) Accessory buildings	A[5]	A[5]	A[5]	A[5]	A[5]
(b) Composting, incidental	A[16]	A[16]	A[16]	A[16]	A[16]
(c) Driveways	A[5]	A[5]	A[5]	A[5]	A[5]
(d) Fences, walls	A[5]	A[5]	A[5]	A[5]	A[5]
(e) Golf, swim, tennis club, private	A[5]	A[5]			
(f) Home occupation	A[3]	A[3]	A[3]	A[3]	A[3]
(g) Other accessory structures	A[5]	A[5]	A[5]	A[5]	A[5]
(h) Private swimming pools	A[5]	A[5]	A[5]	A[5]	A[5]
(i) Signs	A[5, 6]	A[5, 6]	A[5, 6]	A[5, 6]	A[5, 6]
(j) Solar energy structure	A[8]	A[8]	A[8]	A[8]	A[8]
(k) Solar panel, building	A[9]	A[9]	A[9]	A[9]	A[9]
(l) Utility box	A[10]	A[10]	A[10]	A[10]	A[10]
(m) Wind turbine	A[11]	A[11]	A[11]	A[11]	A[11]
(n) Windmill, micro	A[12]	A[12]	A[12]	A[12]	A[12]

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

Notes to Schedule 150.305.2:
[1] As further regulated by Section 150.565, Single-family Dwelling, Detached Cluster.
[2] Shall only be permitted in a non-residentially constructed building existing prior to August 1, 2006.
[3] As regulated by Section 150.440, Home Occupation Regulations.
[4] Reserved.
[5] See Section 150.305.5, Accessory Use Regulations
[6] As regulated by Section 150.900, Sign Regulations.
[7] As further regulated by Section 150.565, Attached Single-family Dwelling
[8] As further regulated by Section 150.565, Solar energy structure
[9] As further regulated by Section 150.565, Solar panel, building
[10] As further regulated by Section 150.565, Utility box
[11] As further regulated by Section 150.565, Wind turbine
[12] As further regulated by Section 150.565, Windmill, micro
[13] 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.
[14] As further regulated by Section 150.420.1, Bee keeping
[15] Shall only be permitted on non-residential buildings
[16] As further regulated by Section 150.420.1.5, Composting, incidental
[17] Only one group residential use shall be permitted per zoning lot

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

150.305.3 Lot and Setback Requirements

(A) One Dwelling per Lot. There shall not be more than one (1) dwelling unit constructed on a zoning lot, except as otherwise permitted as part of a planned development, a single-family attached development, a multi-family development or a two-family dwelling.

(B) Lot Requirements. Lots created and used in a single family residential district shall comply with the minimum lot area, width, and the maximum lot coverage requirements specified in Schedule 150.305.3 for the district in which the lot is located, except as otherwise regulated in Section 150.350 for planned developments and as otherwise regulated in Section 150.500 for conditional uses and those uses denoted as a **P***.

(C) Setbacks Requirements. Principal buildings shall be located on a zoning lot in a manner that maintains the required front, side, and rear setbacks set forth in Schedule 150.305.3 for the district in which the lot is located, except as provided for in Section 150.350 for planned developments and as otherwise regulated in Section 150.500 for conditional uses and those uses denoted as a **P***. Each setback shall remain unobstructed by structures except as otherwise permitted in this Code.

(1) Minimum Front Setback. In the ER-3, ER-4, and MR-5 Districts, the minimum front setback shall be the average setback of adjacent principal buildings. Such minimum front setback shall be the average distance, or within three (3) feet of such

average, of the front setbacks of the four lots, two on either side, of the zoning lot under review as shown in Figure 1, Context 4-A. If vacant lots surround the zoning lot, the average shall be determined by calculating the average front setback of the four properties most directly across the street (See Figure 1, Context 4-B), or if all four of the properties across the street are also vacant, the average shall be derived using the front setbacks of those lots on the nearest similar street, as determined by the Zoning Administrator.

In a case where portions of an existing structure are closer to the front street lot line than the four lots used to determine the average, a new addition or alteration may come up to the portion of the structure closest to the front lot line.

When determining the minimum front setback, the Zoning Administrator shall exclude any adjacent building with a setback that exceeds, by more than twenty-five (25) percent, the average setback of the other lots used to determine the average.

When determining the minimum front setback, the Zoning Administrator shall exclude any adjacent building with a setback that is at least twenty-five (25) percent less than the average setback of the other lots used to determine the average, if the permit applicant requests such exclusion.

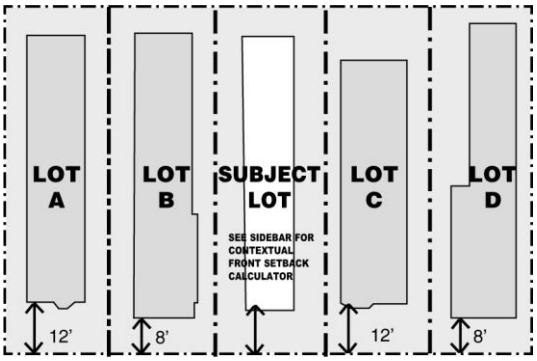
(2) Maximum Front Setback. In the ER-3, ER-4, and the MR-5 Districts, the maximum front setback shall be the largest setback of the four adjacent front setbacks, two on either side of the zoning lot under review, except when an adjacent setback is excluded as described in sub-section 150.305.3 (C) (1) above. A registered architect, engineer, or surveyor shall calculate this average.

(3) Front Setback on Through Lots. On a through lot, a front setback shall be provided on each frontage equal to the minimum required front setback as set forth in Schedule 150.305.3. There shall be no required rear setback on a through lot.

Figure 1. Contextual Front Setback Calculations.

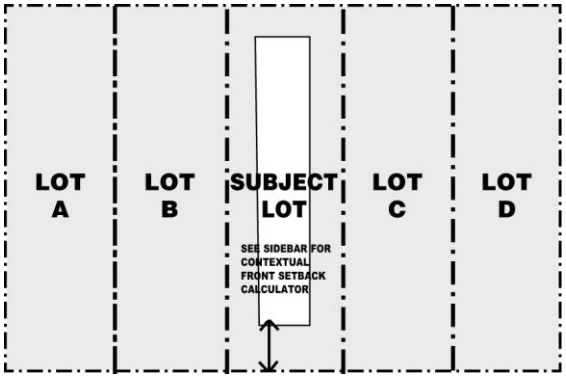
Please see next page for Figure 1.

Figure 1 - Contextual Front Setback Calculations



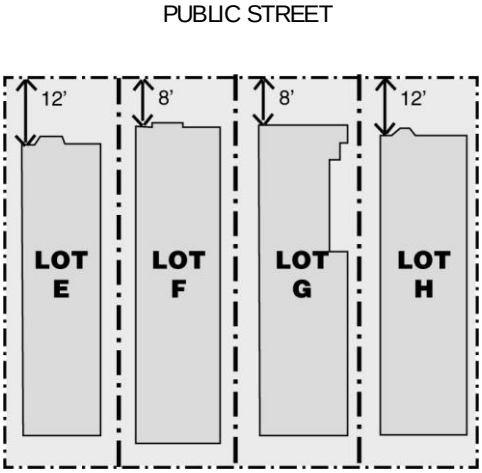
Context 4 - A

Lot	Yard Depth (feet)
A	12
B	8
C	12
D	8
Total	40
Average	40/4=10



Context 4 - B

Lot	Yard Depth (feet)
A	Vacant
B	Vacant
C	Vacant
D	Vacant
E	12
F	8
G	8
H	12
Total	40
Average	40/4=10



(4) Corner Side Setback. Corner side setbacks shall be as set forth below:

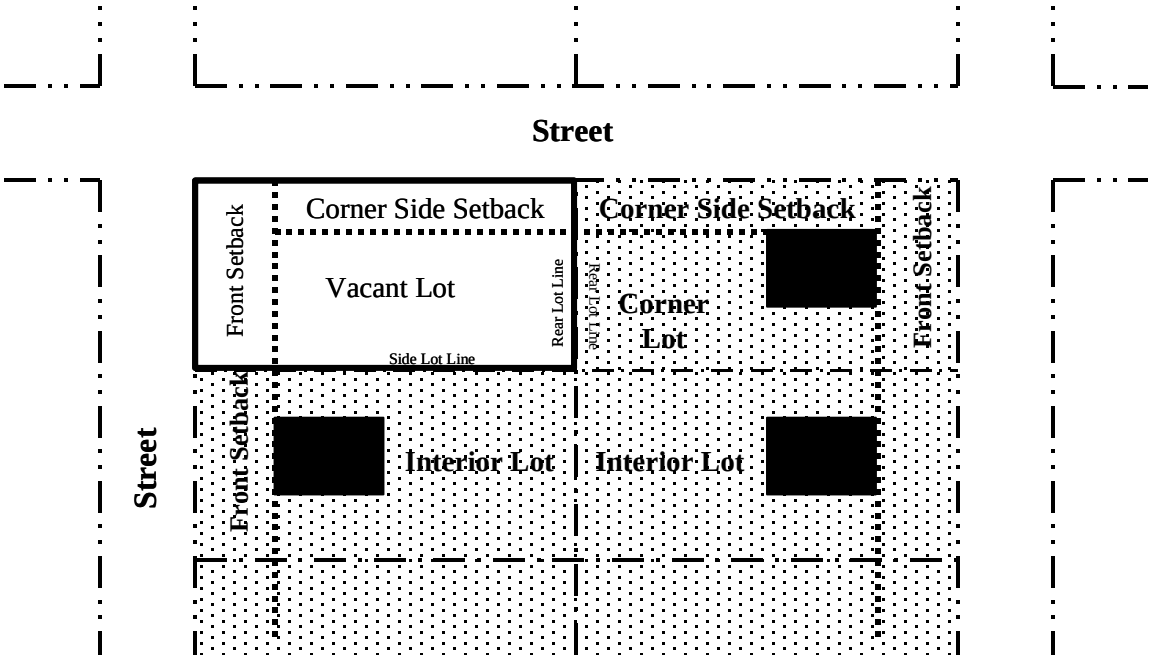
(a) When the rear lot line of a corner lot abuts the rear lot line of another corner lot, the corner side setback shall be the greater of:

(i) The corner side setback of the abutting corner lot; or,
(ii) The minimum side setback set forth in Schedule 150.305.3.

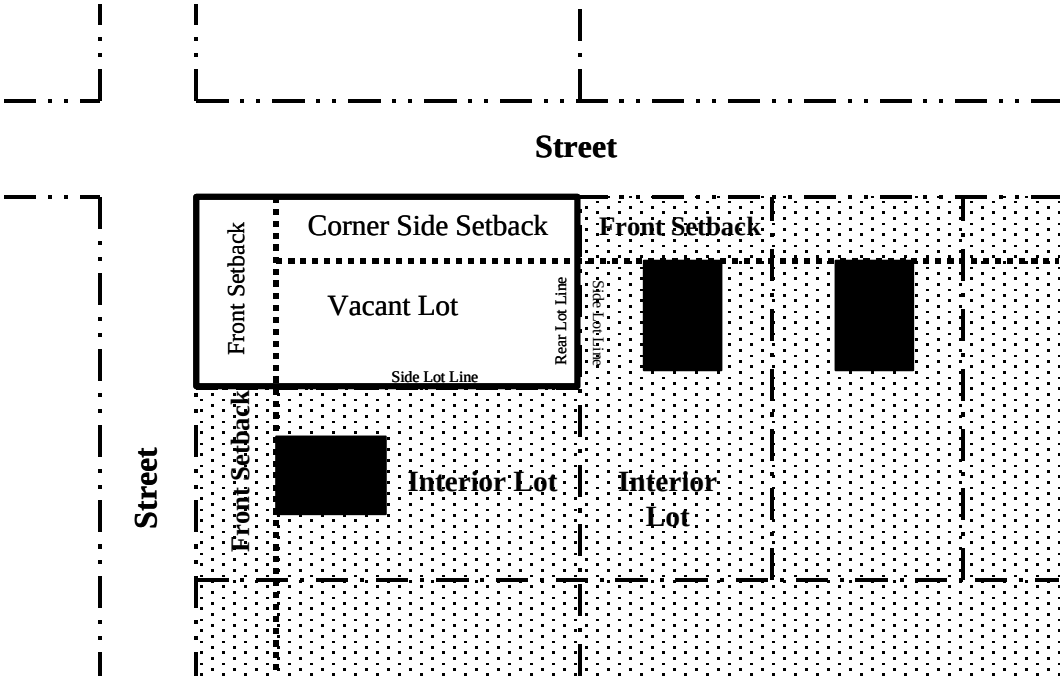
(b) When the rear lot line of a corner lot abuts the side lot line of an interior lot, the corner side setback shall comply with the requirements for a front setback as specified in Schedule 150.305.3.

(c) See Figure 2.

(5) Figure 2. Illustration of Corner Side Setback Requirements.



Please see next page for additional illustration.



(D) Schedule 150.305.3. Lot and Setback Requirements. (Ord. 30515-05, passed 12-28-05; amend Ord. 31142-11, passed 12-21-11)

Schedule 150.305.3
Lot and Setback Requirements 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**
(1) **Lot Requirements**					
(a) Minimum lot size unless specified below or in §150.500, Conditional Use and Specific Use Regulations	7,000 square feet	5,500 square feet	4,500 square feet	3,500 square feet	3,000 square feet
(i) Single-family dwelling, detached					
(ii) Single-family dwelling, detached cluster	1	2			
(iii) Single-family dwelling, attached					
(iv) Two-family dwelling					
(v) Multi-family dwelling					3
(b) Minimum lot width	70 feet	60 feet	50 feet	40 feet	30 feet
(c) Maximum lot coverage	40%	40%	50%	50%	65%

Schedule 150.305.3
Lot and Setback Requirements 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**
(2) **Minimum Setback**					
(a) Front Setback	25 feet	25 feet	See Sections 150.305.3 (C)	See Sections 150.305.3 (C)	See Sections 150.305.3 (C)
(b) Side Setback (each side)[4]	5 feet	5 feet	4 feet	3 feet	3 feet
(c) Rear Setback	30 feet	30 feet	30 feet	30 feet	30 feet

Notes to Schedule 150.305.3:
[1] Density shall not exceed 4.5 dwelling units per acre.
[2] Density shall not exceed 5.5 dwellings units per acre.
[3] The minimum square footage per unit shall be 600 sq. ft.
[4] As further regulated by sub-section 150.305.3 (C)(4), Corner Side Setback.

150.305.4 Height Regulations

All buildings and structures in the Single family Residential Districts shall comply with the following, unless otherwise regulated in Section 150.500 for conditional uses and those uses denoted with a **P***.

(A) Height of Principal Dwelling or Building.

(1) The maximum height of a principal dwelling or building shall be 40 feet.

(2) The minimum height of a principal dwelling unit or building shall be the height of the lowest home on the four lots, two on either side, of the zoning lot under review. A registered architect or engineer shall determine this height. If any of the four lots used to determine the lowest height are vacant, the remaining lots shall be used to determine the lowest permitted height. If all of these lots are vacant, the minimum height shall be ascertained by determining the lowest height of the four properties most directly across the public street.

(B) Maximum Height of Accessory Buildings or Structures. The maximum height of an accessory building shall not exceed the height of the principal dwelling unit or forty (40) feet, whichever is less.

(C) Height Exceptions. Permitted height exceptions are set forth in Section 150.200.2, Building height. (Ord. 30515-05, passed 12-28-05)

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.

(A) Accessory Buildings. No accessory building, structure or use shall be established on a lot unless a principal building or use has first been established on the lot in conformance with all applicable provisions of this Zoning Code.

(B) Requirements for Accessory Uses.

(1) An accessory building or use permitted in a residential district shall be located in accordance with the restrictions set forth in Schedule 150.305.5. However, an accessory use shall only be permitted to the extent such use complies with all other accessory use regulations set forth in this section. If any accessory structure is located within an easement, the owner of such accessory structure shall be responsible for any costs associated with the removal and/or replacement of the structure should access to the easement be required.

(2) No accessory building, structure or use shall be permitted in any required front setback unless it is a permitted encroachment as defined in Section 150.305.8.

(3) No more than three (3) accessory buildings shall be located on a single zoning lot, except agricultural uses in the **SR-1** District are permitted up to seven (7) accessory buildings if the area of the zoning lot is ten (10) acres or more.

(4) An accessory building, structure or use permitted in the Residential Districts shall be located or meet the requirements set forth in Schedule 150.305.5. In addition to the requirements set forth below, accessory buildings and structures shall otherwise comply with the area requirements set forth in Section 150.305.5 (D).

(C) Schedule 150.305.5. Accessory Use Requirements.

Schedule 150.305.5
Accessory Use Requirements

Use	Yard Permitted	Minimum Setback from Lot Line		
		Front	Side	Rear
(1) Detached accessory buildings, including garages [2, 4]	Rear	NA	(1)	5 ft.
(2) Driveways [3, 5]	Front, corner side, side, rear	NA	(3)	NA
(3) Fences, walls	Front, corner side, side, rear	0	0	0
(4) Uncovered & unenclosed porches, patios and decks	Front, Side, rear	See Sub-sub-section 150.305.8, Projections into Required Setbacks	(1)	See Sub-sub-section 150.305.8, Projections into Required Setbacks
(5) Private swimming pools	Rear	NA	10 ft.	10 ft.
(6) All other accessory uses listed in Schedule 150.305.2	Shall follow applicable requirements of the Zoning Code	Shall follow applicable requirements of the Zoning Code	Shall follow applicable requirements of the Zoning Code	Shall follow applicable requirements of the Zoning Code

Notes to Schedule 150.305.5: See next page

Schedule 150.305.5 Accessory Use Requirements				
Use	**Yard Permitted**	**Minimum Setback from Lot Line**		
		Front	**Side**	**Rear**

[1] Shall comply with the minimum side setback requirement for principal buildings in Schedule 150.305.3 and sub-section 150.305.6, Residential Contextual Standards.

[2] Shall have a 10 ft. setback from the principal building, unless it complies with applicable fire, safety, or building codes.

[3] Driveways shall be two (2) feet from the side lot line in the Suburban Residential Districts. Driveways may be adjacent to the lot line if a common driveway is provided for two adjoining lots, subject to the provision of a recorded legal instrument which guarantees access to the drive and which assigns responsibility for maintenance of the drive.

[4] As further regulated by Section 150.435, Garage and Surface Parking Setbacks from Alleys

[5] The maximum width of driveways, except common driveways and driveways located within the SR-1 and SR-2 Districts, shall be twelve (12) feet. The maximum width of driveways, except common driveways located in the SR-1 and SR-2 Districts shall be twenty (20) feet. In addition, driveway approaches from a public street (where permitted) shall terminate at legal off-street parking spaces behind the front setback.

NA Not Applicable.

(D) Area Requirements for Accessory Structures.

(1) For single family detached dwelling units, the area of an attached or detached garage shall not exceed 900 square feet.

(2) The area of an accessory structure, which is used for a permitted accessory use, shall not exceed 200 square feet.

(3) For single-family detached dwelling units, the maximum area of all accessory structures, including attached garages, shall not exceed 950 square feet, except agricultural uses in the **SR-1** District are permitted a maximum total area for all accessory structures of 4000 square feet if the area of the zoning lot is ten (10) acres or more.

(E) Additional Regulations for Recreational Vehicles. Recreational vehicles are permitted provided they comply with the regulations set forth below:

(1) They shall not be connected to electricity, water, gas, or sanitary sewer facilities, and at no time shall this equipment be used for living or housekeeping purposes.

(2) If the recreational vehicle is parked or stored outside, it shall not exceed thirty (30) feet in length, measured from the front of the vehicle or towing connection to the furthest rear appurtenance on the recreational vehicle; it shall be parked in the rear yard; and shall not be stored in any side setback. On a corner lot, a recreational vehicle shall be parked or stored in compliance with the corner side setback requirements in sub-section 150.305.3 (C) (4), Corner Side Setback.

(3) Notwithstanding the provisions of this sub-section, recreational vehicles may be parked anywhere on the premises for loading or unloading purposes, for a period of not more than 48 hours.

(4) If the recreational equipment 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 recreational equipment shall be maintained pursuant to all applicable City ordinances, codes, standards, and regulations.

(5) All recreational equipment shall be kept operable and in good repair and carry a current year's license or registration.

(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 shall not be permitted.

(2) The overnight parking or the outdoor storage of commercial motor vehicles over one (1) ton rated capacity and/or buses shall not be permitted.

(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 permeable or pervious concrete or brick paving, or on an impervious surface, such as asphalt or concrete, or on a combination thereof. 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. Of the five (5) vehicles, no more than one (1) shall be a recreational vehicle/equipment or utility trailer.

For two-family dwellings, each dwelling unit shall have no more than three (3) vehicles, including recreational vehicles/equipment and/or utility trailers, parked or stored outside. Of the three (3) vehicles, no more than one (1) shall be a recreational vehicle/equipment or utility trailer.

(G) Outdoor Storage. Outdoor storage shall not be permitted.

(H) Temporary Storage Units. Temporary storage units, meaning those without a foundation, shall not be permitted in a front or side yard. They may be placed on a lot, in order to unload or load them, for not more than fourteen (14) days in any twenty (20) day period, provided they shall not be located in a front yard, except on an impervious surface such as the driveway, during this fourteen (14) day period.

(I) Fences/Wall Height, Materials, and Location. In single-family residential districts, fences may be located in the required setbacks specified in Schedule 150.305.5 and in sub -section

150.305.8, Projections into Required Setbacks. All fences shall comply with the regulations set forth below:

(1) In the front yard of interior and corner lots, fence height shall not exceed forty-two (42) inches. It shall be constructed, using such materials or construction methods, as to achieve a minimum transparency of twenty-five (25) percent. The openings of the fence that provide the transparency shall be evenly spaced throughout the vertical surface.

(2) For lots located on a corner, if the fence is located in the required side or corner side setback, as specified in Schedule 150.305.3 and Section 150.305.3 (C) (4), then the fence height shall not exceed forty-two (42) inches. If the fence is located behind the required side or corner side setback, the fence height shall not exceed eight (8) feet. However, any portion over six (6) feet in height shall be constructed of materials that are fifty (50) percent transparent. The openings of the fence that provide the transparency shall be evenly spaced throughout the vertical surface. All fences and walls shall comply with Section 150.410, Visibility at Intersections.

(3) Fences in the rear yard shall not exceed eight (8) feet. However, any portion over six (6) feet in height shall be constructed of materials that are fifty (50) percent transparent. The openings of the fence that provide the transparency shall be evenly spaced throughout the vertical surface.

(4) Fences that are painted shall be one color. Fences and walls shall be maintained in good repair and condition, be structurally sound, and attractively finished at all times by the owner and/or occupant of the lot on which they are located. The smooth finished side of the fence or wall shall be the side of the fence that faces outward from the yard that is fenced. Fences shall be constructed of only one material or have one unified style. Barbed wire and electrified fences shall not be permitted. Chain link fences shall not exceed 42 inches in height and shall not be permitted in the front and corner side yards.

(J) Swimming Pools. Private swimming pools for the exclusive use of residents of the premises may be located in any residential district provided they comply with the locational and coverage requirements of accessory structures set forth in this Section and the supplemental regulations set forth below.

(1) All swimming pools, together with adjacent walkways, shall be completely enclosed by a wall or fence having a minimum height of 6 feet from ground level, or attached to the pool deck if the deck is above ground level.

(2) For aboveground pools, the height of the pool, from the surrounding grade to the top of the pool wall, may be used as credit to meet the minimum fence height requirement.

(3) All fences and other pool enclosures shall be constructed so as to have no openings, holes, or gaps larger than three (3) inches in width, except for doors, gates, or windows that shall be equipped with suitable locking devices to prevent unauthorized access. Access to secured accessory buildings and walls of principal buildings may be used in place of, or as part of, the enclosure.

(4) All fences and other pool enclosures shall be equipped with suitable locking devices to prevent unauthorized access.

(5) Proper drainage shall be provided to ensure that pool overflow does not affect adjacent properties.

(6) The construction and operation of a pool shall meet all other applicable City regulations. (Ord. 30515-05, passed 12-28-05; 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. 31490-16, passed 5-04-16; amend Ord. 31574-17, passed 7-05-17; amend Ord. 31738-19, passed 5-29-19)

150.305.6 Residential Contextual Standards

The purpose of the following residential contextual standards is to further the goals of the City's Comprehensive Plan and to further Purpose Statements in Section 150.305.1. The Plan sets out three residential development patterns, Suburban; Eclectic; and Mature. The regulations below are tailored to these development patterns so that redevelopment and new construction respects and is compatible with the built environment that was recognized and valued in the City's Comprehensive Plan.

(A) All single and two-family residential uses in the SR-1, SR-2, ER-3, ER-4, and MR-5 Districts shall comply with the regulations in Schedule 150.305.6: (Ord. 30515-05, passed 12-28-05; amend Ord. 30762-08, passed 7-16-08; amend Ord. 31028-10, passed 10-20-10; amend Ord. 31574-17, passed 7-05-17)

Schedule 150.305.6
Residential Contextual Standards

SR-1, SR-2	ER-3, ER-4	MR-5	
X	X	X	(1) **Detached Garage Design**: A detached garage shall complement the principal dwelling in terms of architectural design and materials. The detached garage shall be constructed using the same or similar materials, as determined by the Zoning Administrator, as the principal dwelling and its architectural design shall mirror that of the principal dwelling. The roof pitch of a detached garage shall be similar, as determined by the Zoning Administrator, to the roof pitch on the principal dwelling. In determining the similarity, the Zoning Administrator shall consider the roof pitch on the majority of rooflines on the principal dwelling as well as whether or not the dominant roof pitch would be appropriate on a detached garage. If it would not be appropriate, then a roof pitch that has a similar rise and run shall be utilized on the detached garage, as approved by the Zoning Administrator.
X	X	X	(2) **Location of Detached Garages**: All detached garages shall only be located in the rear yard.
X	X	X	(3) **Eaves**: All eaves, whether on the principal dwelling or on a detached garage, shall have a minimum depth or overhang of twelve (12) inches.
X	X	X	(4) **Building Orientation:** The main entrance to the residence shall face the public street, and the front wall of the principal structure shall be parallel to the street or to its tangent, if the street is curved.

	X	X	(5) **Elevation:** New housing shall be built with a raised foundation, a basement, or designed to suggest that there is a raised foundation equal to the foundation height of adjacent buildings. The height of the raised foundation or the basement shall also be equal to the foundation heights of adjacent buildings. If such heights differ, the applicant may choose which foundation height is most appropriate for the proposed residence.
		X	(6) **Garage Access:** All garages, whether detached or attached to the principal dwelling unit, shall be accessed from the alley, if an alley exists. In no case shall the overhead door(s) of any garage face the street, unless the garage is located on a corner lot. In this case, the overhead door(s) shall not face the street that has been designated, at the time a Zoning Certificate was requested or approved, as the front of the principal dwelling. Driveway approaches from a public street that lead to legal accessory off-street parking spaces in the rear yard shall only be permitted in the absence of an alley.
	X		(7) **Garage Access:** In no case shall the overhead door(s) of an attached garage face the public street, unless the attached garage is located on a corner lot. In this case, the overhead door(s) shall not face the street that has been designated, at the time a Zoning Certificate was requested or approved, as the front of the principal dwelling. Detached garages may be accessed from either the public street or the alley. However, alley access is encouraged, but not required.
	X	X	(8) **Stoops and Porches:** Where new construction or an addition to the front of an existing principal building is proposed, such new principal building or building addition, shall have a front stoop or porch, if stoops or porches are present on the majority of the four homes, two on either side, of the building under review. If any of the four lots used to determine if a front stoop or porch is required are vacant, then the presence or absence of a front stoop or porch on a majority of the remaining lots shall determine if a front stoop is required. If all of these lots are vacant, then the context for determining the required front stoop or porch shall be those four homes most directly across the public street from the lot under review. If a majority of those homes across the public street have a front stoop or porch, then a front stoop or porch is required. The minimum area of a stoop shall be twenty-five (25) square feet. The minimum depth of the required porch shall be six (6) feet. Porch enclosures in front yards or along street frontages are permitted provided that each wall and door has a minimum of 70% transparent material and the space is not used or ordinarily considered as a habitable room.
X	X	X	(9) **Additions Along Public Street Frontages to Single-Family Detached Dwellings, Including Attached Garage Additions.** For walls eight (8) feet or more in length, a minimum of fifteen (15) percent of the wall surface shall include windows and/or doors, and/or simulated windows and/or simulated doors. To calculate the area of the wall, all vertical surfaces of the wall shall be included, excluding exposed foundations and unfinished attic space. For every continuous eight (8) feet of wall length uninterrupted by windows and/or doors, including simulated windows and/or doors, landscaping shall be installed along the wall that shall reach three (3) feet within three (3) years. The landscaping materials shall be compatible with the existing and proposed land use and development character of the surrounding land and structures as determined by the Zoning Administrator. At all times, the landscaping shall be maintained in good and healthy condition.

150.305.7 Supplemental Regulations for Uses

(A) Family Day Care Home, Type "B". This Zoning Ordinance recognizes that the availability of safe and affordable, good-quality child day care is important to the well being of parents and children. Furthermore, it is the purpose of this section to regulate the operation of child day care in a manner that preserves the residential character of neighborhoods. According to ORC 5104.054, any type B family day-care home, whether certified or not certified by the county director of human services, shall be considered to be a residential use of property for purposes of municipal, county, and City zoning and shall be a permitted use in all zoning districts in which residential uses are permitted. A type "B" family day-care home is a permanent residence of the provider where childcare is provided for 1 to 6 children and where no more than three children are under two years of age. For the purposes of this definition, any children under six years of age who are related to the provider and who are on the premises of the day-care home shall be counted. Type "B" family day-care homes are a permitted accessory use in residential districts, and do not require a zoning certificate.

(B) Supplemental Regulations. Some permitted, conditional, and accessory uses or used denoted with a P* in this Section shall be subject to additional regulations that are set forth in Section 150.500, Conditional Use and Specific Use Regulations. (Ord. 30515-05, passed 12-28-05)

150.305.8 Projections into Required Setbacks

Permitted encroachments into required setbacks shall be limited to the following:

(A) In all setbacks:

(1) Steps, which are necessary to access to a permitted building or for access to a zoning lot from a street or alley, provided the steps are four (4) feet or less above grade.

(2) Arbors, trellises, and flag poles.

(3) Fences, provided the fence meets the requirements in sub-section 150.305.5 (I), Fences/Wall Height, Materials, and Location.

(4) In the **MR-5,** Mature Residential District, eaves and gutters, cornices, windowsills, planter boxes, and belt courses shall only project twelve (12) inches into any setback. In the **SR-1, SR-2, ER-3, and ER-4** Districts, the maximum distance eaves and gutters, windowsills, planter boxes, and belt courses may project into any setback is eighteen (18) inches.

(B) In the front setback:

(1) In all single-family residential districts, stoops or unroofed porches, and bay windows or other cantilevered projections provided the encroachment is six (6) feet or less.

(2) Unroofed handicap ramps, provided they do not, in the opinion of the Zoning Administrator, create a visibility hazard.

(3) In all single-family residential districts, covered porches may project six (6) feet or less into the required setback. However, unroofed porches and stoops shall not

project beyond the covered porch if it encroaches into a required front setback the permitted six (6) feet.

(C) In the rear setback:

(1) Detached garages, provided they meet the standards in sub-section 150.305.5 and Schedule 150.305.6; open off-street parking spaces; recreational vehicles; accessory structures or buildings, provided they comply with the standards in sub section 150.305.5, Accessory Use Regulations; bay windows or other cantilevered projections, provided they project five (5) feet or less into the required setback; open, uncovered porches, patios or decks provided they meet the requirements in Section 150.305.5, do not reduce the required rear setback to less than fifteen (15) feet, and do not project into the required side setback.

(D) In the side setback:

(1) In the **MR-5** District, no encroachments or projections shall be permitted, with the exception of the items in sub-section 150.305.8 (A). In the **ER-3 and the ER-4**, chimneys, bay windows or similar architectural items may project no more than eighteen (18) inches.

(2) Open and off-street parking spaces provided they meet the standards in Section 150.700, Off-Street Parking and Loading Regulations.

(E) Landscaping and Incidental Structures Permitted. Hedges, shrubs, trees, flowers, plants, walks, latticework screens, mail boxes, lamp posts, bird baths, benches, basketball hoops, and similar landscaping features and incidental structures shall be permitted in a required setback provided such landscaping features and incidental structures comply with the visual clearance requirements for corner lots set forth in Section 150.410, Visibility at Intersections. (Ord. 30515-05, passed 12-28-05; amend Ord. 31283-13, passed 12-18-13)

150.305.9 Site Design Plan Review

All uses in the Single-family Districts, except those uses specifically excluded in sub-section 150.115.3, Exceptions, shall be permitted only after site design plans have been reviewed and approved according to the procedures set forth in Section 150.115, Site Design Review Procedures. (Ord. 30515-05, passed 12-28-05; amend Ord. 31142-11, passed 12-21-11)

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Section 150.310
Multi-Family Residential Districts

§150.310.1 Purposes
§150.310.2 Permitted Uses
§150.310.3 Area & Density Requirements
§150.310.4 Site Development Regulations
§150.310.5 Height Regulations
§150.310.6 Off-Street Parking Regulations
§150.310.7 Accessory Use Regulations
§150.310.8 Landscaping, Screening, and Lighting Requirements
§150.310.9 Site Improvement Standards
§150.310.10 Residential Contextual Regulations
§150.310.11 Supplemental Regulations for Permitted Uses
§150.310.12 Site Design Plan Review

150.310.1 Purposes.

Multi-family residential districts (SMF, EMF, MMF) and their regulations are established in order to achieve the following purposes:

(A) To provide for orderly growth and development in the City of Dayton.

(B) To reflect and reinforce desired development patterns in existing neighborhoods while accommodating the need for future growth.

(C) To preserve the character of differing neighborhoods by providing different districts with different densities and development standards.

(D) To regulate the bulk and location of dwellings to maintain privacy, safety and open spaces for each unit appropriate for the various districts.

(E) To provide for proper location of institutions and other community facilities for the general convenience, safety and amenity of residents.

(F) To provide assurance to property owners, developers and neighbors about the limits of what is allowed in a residentially zoned area.

(G) To carry out the following specific purposes:

(1) Suburban Multi-Family Residential Districts. The purpose of the Suburban Multi-Family Residential Districts is to promote, preserve and protect neighborhoods intended primarily for multi-family dwellings that are suburban in character. As set forth in the City's Comprehensive Plan, Suburban multi-family residential development will be in scale with existing development patterns.

(2) Eclectic Multi-Family Residential Districts. The purpose of the Eclectic Multi-Family Residential Districts is to promote, preserve and protect neighborhoods

intended primarily for multi-family dwellings that are more urban in character. Eclectic areas include neighborhoods of varying density. As set forth in the City's Comprehensive Plan, Eclectic multi-family residential development will be in scale with existing development patterns.

The EMF District is designed to accommodate primarily medium-density multi-family dwellings. The maximum density permitted in this district is established by the bulk regulations that require new development or redevelopment to be similar in character to existing development. Single-family and two-family dwellings are also permitted.

(3) Mature Multi-Family Residential Districts. The purpose of the Mature Multi-Family Residential Districts is to promote, preserve and protect neighborhoods with traditional urban character. Mature areas are generally the oldest, close-to-downtown residential areas in the City. Small, dense lots were generally developed before 1920 in a regular grid street pattern. As set forth in the City's Comprehensive Plan, Mature multi-family residential development will encourage historic preservation, development similar in character to existing development and well-designed, adaptive reuse of commercial and industrial buildings.

The MMF District is designed to accommodate primarily high-density multi-family dwellings. The maximum density permitted in this district is established by the bulk regulations that require new development and redevelopment to be similar in character to existing development. Single-family and two-family dwellings are also permitted. (Ord. 30515-05, passed 12-28-05)

150.310.2 Permitted Uses

(A) Permitted Uses. See sub-section 150.300.2, Use Regulations.

(B) Schedule 150.310.2 of Permitted Uses. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09; amend Ord. 31028-10, passed 10-20-10; amend Ord. 31142-11, passed 12-21-11; amend Ord. 31574-17, passed 7-05-17; amend Ord. 31738-19, passed 5-29-19)

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			
(a) Single-family dwelling, detached	P[1]	P[1]	P[2]
(b) Single-family dwelling, detached cluster	**P***	**P***	**P***
(c) Single-family dwelling, attached	**P***	**P***	**P***
(d) Two-family dwelling	**P***	**P***	**P***
(e) Multi-family dwelling	**P***	**P***	**P***

Schedule 150.310.2
PERMITTED USES IN MULTI-FAMILY RESIDENTIAL DISTRICTS

	SMF Suburban MF Residential	EMF Eclectic MF Residential	MMF Mature MF Residential
(f) Family day care home for 1-6 children (type B)	P	P	P
(g) Family day care home for 7-12 children (type A)	**P***	**P***	**P***
(h) Residential conversion	**P***	**P***	**P***
(2) Group Residential			
(a) Adult care facility for 3-5 persons	P[13]	P[13]	P[13]
(b) Adult care facility for 6-16 persons	**P*[13]**	**P*[13]**	**P*[13]**
(c) Residential facility for 5 or fewer persons	P[13]	P[13]	P[13]
(d) Residential facility for 6-8 persons	P[13]	P[13]	P[13]
(e) Residential facility for 9-16 persons	**P*[13]**	**P*[13]**	**P*[13]**
(3) Residential/Work			
(a) Home occupation	A[3]	A[3]	A[3]
(b) Live-work unit	C	C	C
(4) Community Facilities/Institutions			
(a) Church/religious assembly	C	C	C
(b) Community center	C	C	C
(c) Congregate care facility/nursing home	C	C	C
(d) Cultural institution	C	C	C
(e) Library	C	C	C
(f) Public safety facility	C	C	C
(g) Utility substation/distribution facility, indoor	C	C	C
(h) Utility substation/distribution facility, outdoor	C	C	C
(5) Educational Facilities			
(a) Day care center, adult or child	**P***	**P***	**P***
(b) School (public/private), elementary/secondary	C	C	C
(6) Recreation/Open Space			
(a) Golf/swim/tennis club	C	C	C
(b) Park/playground	P	P	P
(7) Lodging			
(a) Bed and breakfast	C	C	C
(8) Other			
(a) Bee keeping	P[10]	P[10]	P[10]

Schedule 150.310.2
PERMITTED USES IN MULTI-FAMILY RESIDENTIAL DISTRICTS

	SMF Suburban MF Residential	EMF Eclectic MF Residential	MMF Mature MF Residential
(b) Community garden	**P***	**P***	**P***
(c) Harvesting	**P***	**P***	**P***
(d) Parking lot, restricted	C	C	C
(e) Telecommunication facility	See Section 150.600	See Section 150.600	See Section 150.600
(f) Wall mural	C[11]	C[11]	C[11]
(9) Accessory Uses			
(a) Accessory buildings	A	A	A
(b) Composting, incidental	A[12]	A[12]	A[12]
(c) Driveways	A	A	A
(d) Fences and walls	A	A	A
(e) Health Club	A	A	A
(f) Home occupation	A[3]	A[3]	A[3]
(g) Off-street parking areas and loading facilities	A	A	A
(h) Other accessory structures	A	A	A
(i) Private Swimming Pools	A	A	A
(j) Retail establishment	A	A	A
(k) Service establishment, personal	A	A	A
(l) Signs	A[4]	A[4]	A[4]
(m) Trash receptacles	A	A	A
(n) Solar energy structure	A[5]	A[5]	A[5]
(o) Solar panel, building	A[6]	A[6]	A[6]
(p) Utility box	A[7]	A[7]	A[7]
(q) Wind turbine	A[8]	A[8]	A[8]
(r) Windmill, micro	A[9]	A[9]	A[9]

Schedule 150.310.2
PERMITTED USES IN MULTI-FAMILY RESIDENTIAL DISTRICTS

	SMF Suburban MF Residential	EMF Eclectic MF Residential	MMF Mature MF Residential

Notes to Schedule 150.310.2:
[1] 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.
[2] 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.
[3] As further regulated by Section 150.440, Home Occupation Regulations
[4] As further regulated by Section 150.900, Sign Regulations
[5] As further regulated by Section 150.565, Solar energy structure
[6] As further regulated by Section 150.565, Solar panel, building
[7] As further regulated by Section 150.565, Utility box
[8] As further regulated by Section 150.565, Wind turbine
[9] As further regulated by Section 150.565, Windmill, micro
[10] As further regulated by Section 150.420.1, Bee keeping
[11] Shall only be permitted on non-residential buildings
[12] As further regulated by Section 150.420.1.5, Composting, incidental
[13] Only one group residential use shall be permitted per zoning lot

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 is prohibited

150.310.3 Area and Density Requirements

Land area shall be divided and developed and buildings shall be erected, altered, moved or maintained in a Multi-family District only in compliance with the following regulations.

(A) Lot Requirements for Single and Two-Family Uses. Lots created and used for single and two-family uses shall comply with the minimum lot area and width as well as the maximum lot coverage requirements specified in Schedule 150.310.3 (B) for the district in which the lot is located.

(B) Schedule 150.310.3 (B) Lot Requirements for Single and Two-Family Uses

Schedule 150.310.3 (B)
Lot Requirements for Single and Two Family Uses

	SMF Suburban MF Residential	EMF Eclectic MF Residential	MMF Mature MF Residential
(1) Minimum lot size (unless specified in Section 150.500)	5000 square feet	5000 square feet	3000 square feet
(2) Minimum lot width	80 feet	40 feet	30 feet
(3) Maximum lot coverage	40%	50%	65%

(C) Lot Requirements for Multi-family Uses. Lots created and used for multi-family uses and other principal uses, except single and two family uses, shall comply with the minimum lot area and width as well as the maximum lot coverage requirements specified in Schedule 150.310.3 (D) for the district in which the lot is located. The entire tract of land to be developed shall be considered one zoning lot. The minimum lot requirements for permitted, conditional, and accessory uses in the Multi-family Districts are specified in Schedule 150.310.3 (D), except as otherwise regulated in Section 150.500 for conditional uses and those uses denoted with a **P***.

(D) Schedule 150.310.3 (D) Lot Requirements for Multi-family Uses & Other Principal Uses.

Schedule 150.310.3 (D) Lot Requirements for Multi-family Uses & Others Principal Uses			
	SMF Suburban MF Residential	**EMF Eclectic MF Residential**	**MMF Mature MF Residential**
(1) Minimum lot size (unless specified below or in Section 150.500)	2 acres	10,000 square feet	10,000 square feet
(2) Minimum lot width	160 feet	80 feet	60 feet
(3) Maximum lot coverage	40%	50%	65%

(E) Maximum Density. The maximum permitted density shall be as set forth below for the district in which the development is located.

(1) Density in the **SMF** District. The density of residential development shall not exceed ten (10) dwelling units per acre. The total number of dwelling units shall be calculated by multiplying the total development area, exclusive of public rights-of-way existing at the time the development plan is submitted, by the number of dwelling units permitted per acre.

(2) Density in the **EMF and MMF** Districts. In these Districts, no maximum density is proscribed. Instead, redevelopment or new construction projects shall reflect the surrounding development pattern in terms of scale, bulk, and compatibility. Therefore, density is governed by the regulations in Schedules 150.310.3(D), 150.310.4(D), and 150.310.5 as well as the Residential Contextual Regulations in sub-section 150.310.10, Residential Contextual Regulations. (Ord. 30515-05, passed 12-28-05)

150.310.4 Site Development Regulations

The following regulations are established to regulate the design and development of buildings in the Multi-Family Districts.

(A) Setback Requirements for Single and Two-family Uses. Principal buildings shall be located on a zoning lot in a manner that maintains the required front, side, and rear setbacks as set forth in Schedule 150.310.4 (B) for the district in which the lot is located. See sub-section 150.305.8 for permitted projections into required setbacks. See Section

150.500 for additional requirements for Conditional Uses and those uses denoted with a **P***.

(B) Schedule 150.310.4 (B) Setback Requirements for Single and Two-family Uses.

Schedule 150.310.4 (B) Setback Requirements for Single and Two-family Uses			
	SMF Suburban MF Residential	**EMF Eclectic MF Residential**	**MMF Mature MF Residential**
(1) **Minimum Setback Depth**			
(a) Front Setback	25 feet	See sub-section 150.310.4 (E) & (F)	See sub-section 150.310.4 (E) & (F)
(b) Rear Setback	25 feet	25 feet	25 feet
(c) Side Setback (each side)	5 feet	4 feet	3 feet

(C) Setback Requirements for Multi-family Uses & Other Principal Uses.

(1) Setback from Existing Public Streets. The setback of a principal building(s) from an existing public street shall not be less than the distance set forth in Schedule 150.310.4 (D). See Section 150.500 for additional requirements for Conditional Uses and those uses denoted with a **P***.

(2) Setback from Project Boundary. The setback of a principal building(s) from any project boundary, which is not an existing public street, shall not be less than the distance set forth in Schedule 150.310.4(D). See Section 150.500 for additional requirements for Conditional Uses and those uses denoted with a **P***.

(D) Schedule 150.310.4(D) Setback Requirements for Multi-family Dwellings & Other Principal Uses.

Schedule 150.310.4(D) Setback Requirements for Multi-family Dwellings & Other Principal Uses			
	SMF Suburban MF Residential	**EMF Eclectic MF Residential**	**MMF Mature MF Residential**
(1) **Minimum Setback Depth**			
(a) Front &Corner Side Setback	25 feet	See sub-section 150.310.4 (E) & (F)	See sub-section 150.310.4 (E) & (F)
(b) Rear Setback (from project boundary or lot line, as applicable)	25 feet	25 feet	25 feet
(c) Side Setback (each side of the lot or project boundary, as applicable)	25 feet	25 feet	25 feet

(E) Minimum Front Yard Setback. The minimum front setback shall be the average setback of adjacent principal buildings. Such minimum front setback shall be the average distance of the front yard setbacks of the four lots, two on either side, of the zoning lot under review or within three (3) feet of such average. See Figure 1 in Section 150.305 for further clarification on calculating this average. A registered architect or engineer shall calculate this contextual average. If vacant lots surround the zoning lot, the average shall be determined by calculating the average of the four properties most directly across the street, or if the properties across the street are also vacant, the average shall be derived using the front setbacks of those lots on the nearest similar street, as determined by the Zoning Administrator.

In a case where portions of an existing structure are closer to the front street lot line than the four lots used to determine the average, a new addition or alteration may come up to the portion of the structure closest to the front lot line.

When determining the minimum front setback, the Zoning Administrator, the Board of Zoning Appeals, or the Plan Board, whichever is applicable according to the procedures in Section 150.115, shall exclude any adjacent building with a setback that exceeds the average setback of the other lots used to determine the average by more than twenty-five (25) percent.

When determining the minimum front setback, the Zoning Administrator, Board of Zoning Appeals, or the Plan Board, whichever is applicable according to the procedures in Section 150.115 shall exclude any adjacent building with a setback that is at least twenty-five (25) percent less than the average setback of the other lots used to determine the average, if the permit applicant requests such exclusion.

(F) Maximum Front Yard Setback. The maximum front yard setback shall be the greater of the four adjacent front setbacks, except when an adjacent setback is excluded as described above in sub-section 150.310.4 (E).

(G) Front Setback on Through Lots. On a through lot, a front setback shall be provided on each frontage equal to the minimum required front yard setback as set forth in Schedule 150.310.4(D). (Ord. 30515-05, passed 12-28-05; amend Ord. 30762-08, passed 7-16-08)

150.310.5 Height Regulations

Buildings and structures shall comply with the height regulations set forth below except as otherwise regulated in Section 150.500 for conditional uses and those uses denoted with a **P*.**

(A) Minimum Building Height for Single and Two-Family Uses and Multi-family Uses. The minimum height of a principal building shall be the height of the lowest building on the four lots, two on either side, of the zoning lot under review. A registered architect or engineer shall determine this height. If vacant lots surround the lot under review, the minimum height shall be determined by determining the lowest height of the four properties most directly across the public street. If any of the four lots used to determine the lowest height are vacant, any of the remaining lots shall be used to determine the lowest permitted height.

(B) Maximum Building Height for Single and Two-family Uses. The height of principal buildings shall not exceed 40 feet.

(C) Maximum Building Height for Multi-family Uses & Other Principal Uses.

(1) In the **SMF** District, the maximum permitted height shall be forty (40) feet.

(2) In the **EMF and MMF** Districts, the building height shall be as follows:

(a) If the proposed development only provides the minimum required side or rear setback and any project boundary abuts a single-family residential district, the maximum height is forty (40) feet.

(b) If the proposed development abuts a single-family residential district and a forty (40) foot side and rear yard setback is provided, then the maximum height permitted shall be ten (10) feet above the minimum building height, or forty (40) feet, whichever is greater.

(c) If the proposed development or any part thereof including parking areas is two hundred (200) feet from a single-family residential district boundary, then the maximum heights listed in Schedule 150.310.5 shall be permitted.

Schedule 150.310.5
Building Height for Multi-family Uses

	EMF Eclectic MF Residential	**MMF Mature MF Residential**
(a) Maximum Building Height (unless specified below)	50 feet	60 feet
(i) Adjacent to Mature Residential	50 feet	60 feet
(ii) Adjacent to Eclectic Residential	50 feet	50 feet
(iii) Adjacent to Suburban Residential	40 feet	40 feet

(D) The maximum height of an accessory building or structure in a multi-family development shall not exceed twenty (20) feet.

(E) For single and two-family uses, the maximum height of an accessory building or structure shall not exceed the height of the principal dwelling unit or forty (40) feet, whichever is less.

(F) For permitted exceptions to the height regulations, see Section 150.200.2, Building height. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09)

150.310.6 Off-Street Parking Regulations

Off street parking and loading areas shall conform to the regulations of Section 150.700, Off-Street Parking & Loading Regulations, to the parking requirements specified in sub-section 150.310.10, Residential Contextual Standards, and to the parking requirements set forth below:

(A) Schedule 150.310.6. Off-street parking shall be located in compliance with the minimum setbacks, measured from the property line, as specified below in Schedule 150.310.6, unless otherwise noted.

Schedule 150.310.6 Minimum Parking Setbacks for Surface Parking lots			
	SMF Suburban MF Residential	**EMF Eclectic MF Residential**	**MMF Mature MF Residential**
(1) **Setback from side or rear lot line:**			
(a) When the lot line abuts a non-residential district	15 ft.	5 ft.	5 ft.
(b) When the lot line abuts a residential district	15 ft.	10 ft.	10 ft.
(2) **Setback from public street rights-of-way**:	10 ft.	10 ft.	10 ft.

(B) Screening. The area within the parking setback shall be landscaped and screened in accordance with Section 150.800, Landscaping and Screening Regulations.

(C) Loading and Service Areas.

(1) Off-street loading and service areas shall be provided in compliance with the regulations in Section 150.700, Off-Street Parking & Loading Regulations.

(2) Loading and service areas in the Multi-family Districts shall be located in the side or rear yard. The preferred location for such uses shall be the rear yard, unless the Plan Board, the Board of Zoning Appeals, or Zoning Administrator, whichever is applicable according to the procedures in Section 150.115, determines that placement in a side yard would lessen the impact on adjacent residential uses. Loading and service areas shall comply with the applicable parking setback requirements set forth in Schedule 150.310.6 and shall be screened in accordance with the provisions set forth in Section 150.800, Landscaping and Screening Regulations. (Ord. 30515-05, passed 12-28-05; amend Ord. 30762-08, passed 7-16-08)

150.310.7 Accessory Use Regulations

Any accessory use permitted in a multi-family residential district may occupy a part of the principal building, occupy a separate accessory structure or constitute an accessory land use.

(A) Fence and Wall Regulations. Fences and walls shall comply with the fence and wall regulations set forth in Section 150.305, Single Family Residential Districts.

(B) Swimming Pools. Private swimming pools for the exclusive use of residents of the premises may be located in any residential district provided they comply with the locational and coverage requirements of accessory structures set forth in this Section and the supplemental regulations set forth below.

(1) All swimming pools, together with adjacent walkways, shall be completely enclosed by a wall or fence having a minimum height of six (6) feet from ground level, or attached to the pool deck if the deck is above ground level.

(2) For aboveground pools, the height of the pool, from the surrounding grade to the top of the pool wall, may be used as credit to meet the minimum fence height requirement.

(3) All fences and other pool enclosures shall be constructed so as to have no openings, holes, or gaps larger than three (3) inches in width, except for doors, gates, or windows that shall be equipped with suitable locking devices to prevent unauthorized access. Access to secured accessory buildings and walls of principal buildings may be used in place of, or as part of, the enclosure.

(4) All fences and other pool enclosures shall be equipped with suitable locking devices to prevent unauthorized access.

(5) Proper drainage shall be provided to ensure that pool overflow does not affect adjacent properties.

(6) The construction and operation of a pool shall meet all other applicable City regulations.

(C) Minimum Setbacks for Accessory Buildings and Uses in Multi-family Developments. Accessory buildings including garages, carports and recreation facilities, and active recreation areas such as a swimming pool or tennis court, which is intended for use by the residents of the residential development, shall comply with the minimum setbacks set forth below:

(1) All accessory buildings and structures shall be located in a rear or side yard.

(2) All accessory buildings and structures shall be setback from the side and rear lot lines a distance equal to the minimum required parking setback. See the setback regulations set forth in Schedule 150.310.6, Minimum Parking Setbacks for Surface Parking Lots.

(D) Driveways and access drives shall be setback five (5) feet from side property lines, unless a shared driveway is provided. Driveways may be adjacent to the lot line if a common driveway is provided for two adjoining lots, subject to the provision of a recorded legal instrument which guarantees access to the drive and which assigns responsibility for maintenance of the drive. Cross-access easements or other acceptable agreements for adjacent lots with shared driveways shall be submitted and be acceptable to the City's Law Department and the Zoning Administrator or Plan Board, or the Board of Zoning Appeals,

whichever is applicable according to the procedures in Section 150.115, to insure availability of shared parking to users.

If a boundary of the multi-family development abuts a single-family zoning district, the driveway or access drive shall be setback ten (10) feet from side lot lines.

(E) Minimum Requirements for Accessory Buildings and Uses for Single and Two-Family Dwellings Units. All accessory buildings, structures, and uses associated with single and two-family dwelling units shall comply with the accessory use regulations set forth in Section 150.305, Single Family Residential Districts.

(F) Regulations Regarding Recreational and Commercial Vehicles. In the multi-family districts, recreational, motor and commercial motor vehicles shall comply with the regulations in sub-sections 150.305.5 (E) and (F).

(G) Outdoor Storage. Outdoor storage shall not be permitted. (Ord. 30515-05, passed 12-28-05; amend Ord. 30762-08, passed 7-16-08; amend Ord. 31738-19, passed 5-29-19)

150.310.8 Landscape, Screening, and Lighting Requirements.

Visual screening, landscape buffers and lighting fixtures shall be provided for multi-family developments in accordance with the provisions set forth in Section 150.800, Landscaping and Screening Regulations, and sub-section 150.420.3, Exterior Lighting Standards. (Ord. 30515-05, passed 12-28-05)

150.310.9 Site Improvement Standards

(A) Underground Utilities. All utilities required to serve a development shall be located underground.

(B) Waste Receptacles. All solid waste products that result from any permitted principal, conditional or accessory use shall either be disposed of, stored in buildings, or completely enclosed in containers. Such building, container or dumpster shall be located in a side or rear yard on a paved surface in compliance with the applicable parking setback established in Schedule 150.310.6 as well as the screening requirements set forth in Section 150.800, Landscaping and Screening Regulations.

(C) Open Space in the SMF District. In the **SMF** District, any development over twenty-five (25) dwelling units shall set aside twenty (20) percent of the gross land area as open space. A specific recreational activity area or areas shall be developed and maintained for the residents of the development as part of this open space as follows:

(1) The size, location, shape, slope, and condition of the land shall be suitable for a specific recreational activity;

(2) The amount of land devoted to recreation shall be a function of the population to be served. Consideration shall be given to the size of the development, number and characteristics of expected residents, proximity to other recreational facilities, topography, and natural features on the site.

(3) Safety buffers shall be provided for users of recreational facilities and equipment using recognized engineering and recreation standards.

(4) Indoor recreational area may be used as a specific recreational activity area. The indoor recreational area shall count as a part of lot coverage, as regulated by the District's regulations. (Ord. 30515-05, passed 12-28-05)

150.310.10 Residential Contextual Regulations

The purpose of the following residential contextual standards is to further the goals of the City's Comprehensive Plan. The Comprehensive Plan sets out three residential development patterns, Suburban; Eclectic; and Mature. The regulations below are tailored to these development patterns so that redevelopment and new construction projects respect, replicate, and create the built environment that was recognized, valued, and envisioned in the City's Comprehensive Plan.

All residential uses, except single-family and two-family uses, in the **SMF, EMF, MMF** Districts shall comply with the regulations below: (Ord. 30515-05, passed 12-28-05; amend Ord. 31142-11, passed 12-21-11)

SMF Suburban MF Residential	EMF Eclectic MF Residential	MMF Mature MF Residential	Design Criteria
X	X	X	(A) To provide a sense of enclosure and definition to the street, the front wall of the principal structure(s) shall be parallel to the public street or to its tangent, if the street is curved. There shall be at least one (1) entrance facing the public street and the principal windows of the building(s) shall also face this public street.
	X	X	(B) A private connecting walkway shall connect the front entrance of the principal structure(s) to the public sidewalk. The walkway shall be surfaced with concrete, brick, or stone. The presence of an access drive does not fulfill this requirement.
X	X	X	(C) Sidewalks shall connect each building entrance to the parking area serving that building, to other buildings on-site, to recreational facilities that are provided as part of the development and uses, as appropriate, on adjacent lots.
X	X	X	(D) All detached garages shall be located in the side or rear yard. If covered parking areas are located abutting a single-family residential zoning boundary, then screening shall be provided pursuant to Section 150.800, Landscaping and Screening Regulations.
X	X	X	(E) All ground mounted mechanical equipment shall be screened as set forth in sub-section 150.800.10, Screening of Accessory Uses. All roof top equipment shall be enclosed in building materials that match the structure or which are visually compatible with the structure.
	X	X	(F) Newly constructed multi-family buildings shall be compatible with adjacent residential development in terms of character, building massing, scale, and bulk.

SMF Suburban MF Residential	EMF Eclectic MF Residential	MMF Mature MF Residential	Design Criteria
	X	X	(G) To create contextually appropriate separations between buildings, principal buildings shall be placed on the site to mirror the building separations found on the nearest block face in the surrounding neighborhood. These separations maybe accomplished by the space between buildings; architectural features, such as columns or pilasters; varying the front setback of connected buildings; creating a courtyard that breaks up the mass of the principal building; and/or altering the roofline of connected buildings.
X			(H) Newly constructed multi-family buildings shall have a minimum separation of twenty-five (25) feet.
	X	X	(I) All parking spaces or lots shall be located behind the front building line. If the development is located on a corner lot, parking shall not be located between the building and any public street.
X			(J) Parking shall be setback twenty (20) feet from a public street right-of-way line. The area within the parking setback shall be landscaped in accordance with sub-section 150.800.9, Screening Along Public Streets and the Perimeter of Parking Areas If the multi-family use is located on a corner lot, the off-street parking shall not be located closer to a side lot line bounding a street than ½ the depth of the required front yard setback.
	X	X	(K) If an alley exists, the access to all off-street parking shall be from the alley or a minor street. 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 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 a single family zoning district boundary or other similar circumstances.
X			(L) There shall be no more than 2 driveway curb cuts per development site. These curb cuts shall be located in such a way as to minimize the impact on the surrounding residential neighborhood.
	X	X	(M) Applicants must clearly demonstrate that the proposed development will be compatible with the residential neighborhood with regard to traffic generation and circulation.

150.310.11 Supplemental Regulations for Permitted Uses

(A) Principal Building Projections into Required Setback. For permitted encroachments into required yards for single and two-family dwelling units, see sub-section 150.305.8, Projections into Required Setbacks.

(B) Supplemental Regulations. Some permitted, conditional, and accessory uses or used denoted with a **P*** in this Section shall be subject to additional regulations that are set forth in Section 150.500. (Ord. 30515-05, passed 12-28-05)

150.310.12 Site Design Plan Review

All uses in a Multi-family District, except those uses specifically excluded in Section 150.115, shall be permitted only after site design plans have been reviewed and approved according to the procedures set forth in Section 150.115, Site Design Review Procedures. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09; amend Ord. 31142-11, passed 12-21-11)

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Section 150.315
Manufactured Home District

§150.315.1 Purposes
§150.315.2 Permitted Uses
§150.315.3 Manufactured Home Community Requirements
§150.315.4 Manufactured Home Lot Requirements
§150.315.5 Manufactured and Mobile Home Requirements
§150.315.6 Community Facilities and Services
§150.315.7 Landscaping and Screening Requirements
§150.315.8 Accessory Use Regulations
§150.315.9 Performance Standards
§150.315.10 Site Design Plan Review

150.315.1 Purposes

The Manufactured Home (MH) District and its regulations are established in order to achieve the following purposes:

(A) To provide for orderly growth and development in the City of Dayton.

(B) To preserve the character of differing neighborhoods by providing for the location of mobile homes and manufactured homes in manufactured home communities.

(C) To regulate the bulk and location of dwellings to maintain privacy, safety and open spaces for each unit appropriate for the district.

(D) To provide certainty to property owners, developers and neighbors about the limits of what is allowed in a manufactured home zoning district. (Ord. 30515-05, passed 12-28-05)

150.315.2 Permitted Uses

(A) Permitted Uses. See sub-section 150.300.2, Use Regulations.

(B) Schedule 150.315.2 of Permitted Uses. (Ord. 30515-05, passed 12-28-05, amend Ord. 30643-07, passed 3-21-07; amend Ord. 30893-09, passed 7-15-09; amend Ord. 31028-10, passed 10-20-10; amend Ord. 31142-11, passed 12-21-11; amend Ord. 31574-17, passed 7-05-17; amend Ord. 31738-19, passed 5-29-19)

Schedule 150.315.2
PERMITTED USES IN MANUFACTURED HOME DISTRICT

	MH
	Manufactured Home
(1) Residential	
(a) Single-family, dwelling, detached	See A[4]
(b) Manufactured home	P

(c) Mobile home	P
(2) Residential/Work	
(a) Home occupation	A[5]
(3) Recreation/Open Space	
(a) Park/playground	P
(4) Other	
(a) Bee keeping	P[12]
(b) Day care center	C
(c) Community garden	**P***
(d) Harvesting	**P***
(e) Telecommunication facility	See Section 150.600
(f) Utility substation/ distribution facility, indoor	C
(g) Utility substation/ distribution facility, outdoor	C
(h) Wall mural	C[13]
(5) Accessory Uses	
(a) Accessory buildings	A
(b) Composting, incidental	A[14]
(c) Home occupation	A[5]
(d) Office	A[1]
(e) Off-street parking areas and loading facilities	A
(f) Private swimming pools	A[2, 6]
(g) Recreation facility, indoor	A[2]
(h) Recreation facility, outdoor	A[2]
(i) Service establishment, personal	A[3]
(j) Signs	A
(k) Single-family dwelling, detached	A[4]
(l) Solar energy structure	A[7]
(m) Solar panel, building	A[8]
(n) Utility box	A[9]
(o) Wind turbine	A[10]
(p) Windmill, micro	A[11]

[1] An office for the on-site manager shall be permitted. All other office uses shall not be permitted.
[2] Recreation facilities that are solely utilized by the residents of the manufactured home community shall be permitted.
[3] A personal service establishment that is solely utilized by residents of the manufactured home community shall be permitted.
[4.] A single-family detached dwelling for the on-site manager shall be permitted. All other single-family detached dwellings shall not be permitted, except those constructed prior to August 1, 2006.
[5] As further regulated by Section 150.440, Home Occupation Regulations
[6] As further regulated by Section 150.315.8 (B), Private Swimming Pools
[7] As further regulated by Section 150.565, Solar energy structure
[8] As further regulated by Section 150.565, Solar panel, building
[9] As further regulated by Section 150.565, Utility box
[10] As further regulated by Section 150.565, Wind turbine
[11] As further regulated by Section 150.565, Windmill, micro
[12] As further regulated by Section 150.420.1, Bee keeping
[13] Shall only be permitted on non-residential buildings
[14] As further regulated by Section 150.420.1.5, Composting, incidental

P = Use permitted by right; **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

150.315.3 Manufactured Home Community Requirements

(A) Minimum Community Area. A manufactured home community shall contain a minimum of eight (8) acres.

(B) Minimum Width of Community. The minimum width of the manufactured home community shall not be less than 250 feet.

(C) Minimum Setbacks. All manufactured homes, mobile homes, parking areas, accessory buildings, and private swimming pools shall be setback fifty (50) feet from the front property lines, twenty-five (25) feet from any property boundary abutting residentially zoned land, and fifteen (15) feet when abutting any other property boundary.

(D) Maximum Density. The maximum density shall not exceed eight (8) manufactured or mobile homes per acre.

(E) Access. All manufactured home communities should have access to adequate collector streets with a right-of-way not less than sixty (60) feet.

(F) Streets. No street, including associated drainage facilities, shall be located closer than ten (10) feet to any property boundary of a manufactured home community. Private access drives built to the following specifications shall be permitted, provided they are constructed to conform to the City's street construction specifications:

(1) One-way private access drives shall have a minimum pavement width of eighteen (18) feet with parking permitted only on one side.

(2) Two-way private access drive:

(a) Twenty-foot (20) minimum pavement width with no parking allowed; or,

(b) Twenty-eight (28) foot minimum pavement width with parking allowed on one side of the private access drive.

(c) Thirty-four foot minimum pavement width with parking allowed on both sides of the private access drive.

(G) Sidewalks. All manufactured home communities shall have paved sidewalks at least three (3) feet in width on one side of interior streets. A private sidewalk, with a minimum width of two (2) feet, that provides a walkway from the manufactured home to a roadway or the common sidewalk system, shall be required. Additional sidewalks that connect service buildings and recreational areas to the common sidewalk system shall be provided.

(H) Commercial, Office, and Recreational Uses. Permitted commercial, office, and recreational uses shall be designed and located to protect the character of the District and surrounding residential uses. Such facilities shall be screened and landscaped so as to be compatible with adjoining manufactured home lots. Construction of commercial uses shall not begin until twenty-five percent (25%) of the manufactured home lots have been constructed. There shall be no retail sales of manufactured or mobile homes on the premises. (Ord. 30515-05, passed 12-28-05, amend Ord. 30643-07, passed 3-21-07)

150.315.4 Manufactured Home Lot Requirements

Individual manufactured or mobile home lots within manufactured home communities shall conform to the following development requirements:

(A) Minimum Lot Area. Each manufactured home lot shall contain a minimum area of 3,600 square feet.

(B) Minimum Lot Width. The minimum width of each manufactured or mobile home lot shall be forty (40) feet. The minimum width of corner lots, however, shall be fifty (50) feet.

(C) Clearance. There shall be a minimum clearance of twenty (20) feet between individual manufactured or mobile homes.

(D) Parking. Automobile parking spaces shall be provided for each manufactured or mobile home lot as follows:

(1) Two (2) spaces shall be provided for each manufactured home lot for the exclusive use of the occupants thereof.

(2) The size of the driveway shall not be less than 400 square feet. It shall be located not more than 100 feet from the manufactured home site it is intended to serve.

(E) Patio. Each manufactured or mobile home shall be provided with a paved patio area at least 200 square feet in area.

(F) Storage. Suitable facilities, constructed of weather-resistant materials with a minimum of ninety cubic feet of space per lot, shall be provided on each lot, or in compounds within 100 feet from each lot. When fuel oil storage is required, a tank shall be provided for each user.

(G) Skirting. Each manufactured or mobile home shall be securely skirted, entirely enclosing the bottom section at the time of occupancy. The skirting shall be of an impervious material and consistent with the characteristics of the manufactured home. (Ord. 30515-05, passed 12-28-05)

150.315.5 Manufactured and Mobile Home Requirements

(A) Minimum Floor Area. Each manufactured or mobile home placed within a manufactured home community shall have a minimum area of 400 square feet.

(B) Minimum Dimensions. The minimum length of a manufactured or mobile home shall not be less than forty (40) feet, excluding the hitch and other transporting appurtenances with a total floor area of not less than 400 square feet.

(C) Foundation. Each manufactured or mobile home lot shall be provided with a stable base upon which to place the manufactured home. This base shall consist of two (2) paved runways each at least five (5) inches deep with re-rods, two feet wide, and sixty feet long. Other acceptable foundations may be permitted, if approved by the Chief Building Official. Each manufactured home lot shall be provided with anchors and tie downs for securing the stability of the manufactured home, and shall be attached and used at all times when the lot is occupied.

(D) Height. The maximum height of manufactured homes, mobile homes, and accessory buildings shall not exceed twenty (20) feet.

(E) Compliance with HUD and State of Ohio Regulations. Manufactured and mobile homes shall meet or exceed federal and state manufactured and mobile home codes. (Ord. 30515-05, passed 12-28-05)

150.315.6 Community Facilities and Services

(A) Open Space and Recreation Areas. A safe, usable recreation area of a least 1,000 square feet per manufactured or mobile home or ten percent (10%) of the gross land area of the manufactured home community, whichever is greater, shall be reserved for recreational and open space uses. This figure is in addition to any other open areas required by minimum setback requirements or other sections of the Zoning Code. The recreation area(s) shall conform to the regulations set forth below:

(1) At least one-half of the required recreation and open space shall be developed as one recreation area. This recreation area shall be of a location, condition, size, and shape to be usable for a specific recreation activity. Safety buffers shall be provided for users of recreational facilities using recognized engineering and recreation standards.

(2) The open space shall be owned in common by the manufactured community residents or shall be made available through the use of easements to all residents of the community.

(B) Storm Drainage. Within each manufactured home community, storm drainage shall be provided in accordance with the City's applicable codes.

(C) Water. Within each manufactured home community, the source of water supply shall be from the municipally owned water system. The installation of water supply lines and the connection of individual manufactured homes to the manufactured home community's water system shall be made in accordance with the standards of the City.

(D) Sewage Disposal. Within each manufactured home community, sanitary waste disposal shall be by means of the municipally owned and operated sewerage system. The installation of sewer lines and the connection of individual manufactured homes to the community's sewerage system shall be made in accordance with the standards of the City.

(E) Electrical System. Within each manufactured home community, there shall be installed an electrical distribution system in conformance with the National Electric Code.

(F) Lighting. As part of the submission for site design review, a detailed lighting plan shall be provided that insures adequate site lighting for the manufactured home community.

(G) Underground Utilities. Within each manufactured home park community, all utility lines, including those for electric, telephone and cable service, shall be placed underground.

(H) Garbage and Refuse Storage. The storage and collection of garbage and refuse within each manufactured home community shall be conducted as to create no health hazards, rodent harborage, insect breeding areas, fire hazards, or air pollution. All garbage shall be stored in fly-tight, rodent-proof containers. Any building, container, or dumpster used to dispose of garbage or refuse shall be screened in accordance with the provisions set forth in Section 150.800.10, Screening of Accessory Uses.

(I) Fire Protection. Within each manufactured home community, adequate water mains, fire hydrants, gaited connections and other fire prevention and fire safety facilities shall be installed. Standard fire hydrants shall be located in accordance with the City's applicable codes. Portable fire extinguisher and smoke detectors shall be required in each manufactured home by the park management.

(J) Service Buildings. Suitable facilities may be required by the City for repair, storage, and laundry services. (Ord. 30515-05, passed 12-28-05)

150.315.7 Landscaping and Screening Requirements

The outer boundaries of the manufactured home community shall contain a buffer zone planted and maintained by the park operator. The buffer zone shall be composed of a green strip, not less than ten (10) feet in width, planted and maintained with a continuous, evergreen hedge of densely planted evergreen trees and shrubs not less than six (6) feet in height, located along all park boundaries, including the boundaries abutting a public right-of-way. (Ord. 30515-05, passed 12-28-05)

150.315.8 Accessory Use Regulations

(A) Fences and Walls. Fences and walls shall comply with the fence and wall regulations set forth in Section 150.325.8 (B), Fences and Walls, in the Commercial Districts.

(B) Private Swimming Pools. Private swimming pools, for the use of residents of a manufactured/mobile home development, may be located in the Manufactured Home District provided they comply with the regulations set forth below:

(1) All private swimming pools shall comply with the regulations in sub-section 150.305.5 (J) (1) – (6).

(2) Private swimming pools shall comply with the minimum setbacks set forth in sub-section 150.315.3 (C), Minimum Setbacks.

(3) If the swimming pool is located on any minimum setback line, the perimeter of the swimming pool and associated accessory structures, such as but not limited to patios and decks, shall be screened. This screening shall be a combination of ornamental fencing or a brick wall and landscaping such that a solid, continuous visual screen is provided. In the case of in-ground pools, this ornamental fencing or brick wall shall fulfill the requirements mandated by sub-section 150.305.5 (J) (1). When landscaping is utilized in combination with ornamental fencing, trees and/or shrubs shall be adequately spaced to form a solid, continuous visual screen within three (3) years after the initial installation. All shrubs and berms shall have a minimum height of three (3) feet, at the time of installation. (Ord. 30515-05, passed 12-28-05; amend Ord. 30643-07, passed 3-21-07)

150.315.9 Performance Standards

All uses shall comply with the following performance standards:

(A) Enclosure. All uses and operations, except off-street parking, shall be performed wholly within enclosed buildings, unless specifically permitted otherwise.

(B) Regulations for Vehicles.

(1) The repainting, rebuilding, overhauling or dismantling of a vehicle or the storage of tires, motor, or body parts shall not be permitted.

(2) The overnight parking or storage of commercial motor vehicles over one (1) ton rated capacity and/or buses shall not be permitted.

(3) The parking or storing of vehicles shall not be permitted in the established lawn areas. (Ord. 30515-05, passed 12-28-05; amend Ord. 30643-07, passed 3-21-07; amend Ord. 31738-19, passed 5-29-19)

150.315.10 Site Design Plan Review

All uses in the Manufactured Home District, except those uses specifically excluded in Section 150.115, shall be permitted only after site design plans have been reviewed and approved according to the procedures set forth in Section 150.115, Site Design Review Procedures. (Ord. 30515-05, passed 12-28-05; amend Ord. 30762-08, passed 7-16-08; amend Ord. 31142-11, passed 12-21-11)

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Section 150.320
Downtown Districts

§150.320.1 Purposes
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§150.320.3 Lot and Setback Requirements
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§150.320.5 Off-Street Parking Requirements
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§150.320.9 Landscaping and Screening Requirements
§150.320.10 Required Design Standards
§150.320.11 Supplemental Regulations for Specific Uses
§150.320.12 Site Design Plan Review

150.320.1 Purposes**.**

The Downtown districts (CBD, UBD) and their regulations are established in order to achieve the following purposes:

(A) To provide for orderly growth and development in the City of Dayton.

(B) To accommodate a mix of uses in an area well served by an existing transportation network of interstate highways and principal arterials.

(C) To reflect and reinforce the existing and desired high-density, pedestrian-scaled development pattern while accommodating the need for future growth.

(D) To provide assurance to property owners, developers and neighbors about the limits of what is allowed in a Downtown district.

To carry out the above principles and to effectuate the goals and objectives in the City's Comprehensive Plan, it has been determined that two types of districts are necessary. The specific purposes for these Districts are:

(A) The Central Business (CBD) District. This District is designed to maintain and reinforce the highly active, high-intensity, and concentrated mix of uses that makes up the traditional downtown/central business district. The office, service, entertainment and retail uses within this district serve the needs of consumer populations well beyond the corporate boundaries of the city. Residential development is also encouraged. Because the CBD District is characterized by zero or very small building setbacks and pedestrian-oriented storefront architecture, this District is crafted to maintain and enhance this pattern of development. In addition, the uniqueness that is Dayton's CBD is derived from its architectural resources and how these resources create and define Dayton's public spaces, including its public rights-of-way. Since strengthening and continuing Dayton's tradition of vibrant public spaces is one purpose for this District, this Section includes design standards.

(B) The Urban Business (UBD) District. This District permits a wide range of residential, retail, service, office, light manufacturing and warehouse uses at a slightly lower intensity than the CBD. This district is also intended to provide for the conversion of older office, industrial and warehousing areas with multi-story buildings to residential, commercial, office or other uses for which the buildings, at the present time, may be better suited. To create an Urban Business District as envisioned and to reinforce existing character of zero or very small building setbacks and pedestrian-oriented storefront architecture, the design standards are applicable in this District as well. The bulk and height of buildings in the UBD are less intense than buildings in the CBD. (Ord. 30515-05, passed 12-28-05; amend Ord. 31738-19, passed 5-29-19)

150.320.2 Permitted Uses.

(A) Permitted Uses. See sub-section 150.300.2, Use Regulations.

(B) Schedule 150.320.2 of Permitted Uses. (Ord. 30515-05, passed 12-28-05; amend Ord. 30643-07, passed 3-21-07; amend Ord. 30893-09, passed 7-15-09; amend Ord. 31028-10, passed 10-20-10; amend Ord. 31142-11, passed 12-21-11; amend Ord. 31283-13, passed 12-18-13; amend Ord. 31490-16, passed 5-04-16; amend Ord. 31574-17, passed 7-05-17; amend Ord. 31738-19, passed 5-29-19)

Schedule 150.320.2
PERMITTED USES IN DOWNTOWN DISTRICTS

	UBD Urban Business District	CBD Central Business District
(1) Residential		
(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
(2) Residential/Work		
(a) Home occupation	P[1]	P[1]
(b) Live-work unit	**P***	**P***
(c) Work-live unit	P	P
(3) Community Facilities/Institutions		
(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

Schedule 150.320.2 PERMITTED USES IN DOWNTOWN DISTRICTS		
	UBD **Urban Business District**	**CBD** **Central Business District**
(h) Jail		C
(i) Library	P	P
(j) Membership Clubs	P	P
(k) Protective care facility	C[2]	C[2]
(l) Public safety facility	P	P
(m) Transitional Housing	C[7]	C[7]
(n) Utility substation/distribution facility, indoor	P[5]	P[5]
(o) Utility substation/distribution facility, outdoor	C	
(4) Educational Facilities		
(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
(5) Recreation/Open Space		
(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
(6) Office/Professional Services		
(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
(7) Retail/Personal Services		
(a) Animal hospital/clinic	P[4]	P[4]
(b) Animal boarding facility with outside run or kennels	C	
(c) Drive-thru facility	C	
(d) Funeral home & related facilities	P	P
(e) Restaurant, indoor dining	P	P
(f) Restaurant, outdoor dining	**P***	**P***

Schedule 150.320.2 PERMITTED USES IN DOWNTOWN DISTRICTS		
	UBD	**CBD**
	Urban Business District	**Central Business District**
(g) Retail establishment	P	P
(h) Service establishment, business	P	P
(i) Service establishment, personal	P	P
(8) Lodging		
(a) Bed & breakfast	**P***	**P***
(b) Hotel/motel	P	P
(9) Motor Vehicle/Transportation		
(a) Automobile service station	C	
(b) Equipment sales/rental/service (including agriculture implements**,** recreational vehicles and commercial motor vehicles.)	C	
(c) Helicopter landing facility	C	C
(d) Motor vehicle repair (including boats)	C	
(e) Motor vehicle sales and rental (including boats)	C	
(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	
(10) Storage and Distribution		
(a) Outdoor storage: equipment/vehicles, general materials	**P***	
(b) Self-storage facility, indoor	**P***	
(c) Warehouse storage, indoor	**P***	**P***
(d) Wholesale sales and/or distribution, indoor	P	P
(11) Industrial		
(a) Manufacturing, light	P[3]	
(b) Manufacturing, light (New Construction of Principal Building)	C	
(c) Microbottler	**P***	**P***
(12) Other		
(a) Bee keeping	P[9]	P[9]
(b) Community garden	**P***	
(c) Nightclub	P	P

Schedule 150.320.2
PERMITTED USES IN DOWNTOWN DISTRICTS

	UBD	CBD
	Urban Business District	**Central Business District**
(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***
(13) Accessory Uses		
(a) Accessory Buildings	A	A
(b) Animal boarding facility with no outside run or kennel	A[4]	A[4]
(c) Car wash	A[6]	
(d) Composting, incidental	A[10]	A[10]
(e) Fences and Walls	A	A
(f) Outdoor display/sales except for motor vehicles	A	A
(g) Off–street parking areas and loading facilities	A	A
(h) Private swimming pools	A[8]	A[8]
(i) Signs	A	A
(j) Solar energy structure	A[11]	A[11]

Notes to Schedule 150.320.2:
[1] As further regulated by Section 150.440, Home Occupation Regulations.
[2] As further regulated by Section 150.565, Protective Care Facility.
[3] Shall only be permitted in a non-residential building existing prior to August 1, 2006.
[4] Animal boarding facilities with no outside facilities may be accessory to a permitted Animal hospital or clinic.
[5] Utility substation/distribution facility, indoor shall not be located on the first floor of any building.
[6] Only car washes, with a single-bay, that are accessory to a vehicle fueling station are permitted.
[7] As further regulated by Section 150.565, Transitional Housing.
[8] As further regulated by Section 150.320.8 (D), Private Swimming Pools.
[9] As further regulated by Section 150.420.1, Bee keeping
[10] As further regulated by Section 150.420.1.5, Composting, incidental
[11] As further regulated by Section 150.565, Solar energy structure

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.

150.320.3 Lot and Setback Requirements

(A) Lot Requirements. The minimum lot requirements for permitted, conditional, and accessory uses in the Downtown Districts are specified in Schedule 150.320.3 for the district in which the lot is located

except as otherwise regulated in Section 150.500 for conditional uses and those uses denoted with a **P***.

(B) Setback Requirements. Every permitted use of land and all buildings and structures shall be located on a lot in a manner that maintains the required front, side, and rear setbacks set forth in Schedule 150.320.3 for the district in which the lot is located, measured from the appropriate lot line, except as otherwise regulated in Section 150.500 for conditional uses and those uses denoted with a **P***. The area within the setbacks shall remain unobstructed by structures except as otherwise permitted in this Code.

(C) Schedule 150.320.3. Development Standards in Downtown Districts

Schedule 150.320.3
DEVELOPMENT STANDARDS IN DOWNTOWN DISTRICTS

	UBD	**CBD**
	Urban Business District	**Central Business District**
(1) **Lot Requirements**		
(a) Minimum lot size	None	None
(b) Minimum lot width	0 feet	0 feet
(c) Maximum lot coverage	100%	100%
(2) **Minimum Setback Depth**		
(a) Front setback		
(i) Maximum[1]	10 feet	10 feet
(b) Side setback (unless specified below)	0 feet	0 feet
(i) Adjacent to Single Family districts	0 feet	0 feet
(ii) Adjacent to Multi-Family districts	0 feet	0 feet
(c) Rear setback (unless specified below)	0 feet	0 feet
(i) Adjacent to Single Family districts	0 feet	0 feet
(ii) Adjacent to Multi-family districts	0 feet	0 feet

Notes to Schedule 150.320.3:
[1] As further regulated by sub-section 150.320.10, Required Design Elements and sub-section 150.320.3 (D), Front Setbacks for Attached Single-family Dwellings

(D) Front Setbacks for Attached Single Family Dwellings. Attached single-family dwellings shall have a maximum front setback of ten (10) feet. (Ord. 30515-05, passed 12-28-05; amend Ord. 30643-07, passed 3-21-07)

150.320.4 Height Regulations

Buildings and structures shall comply with the height regulations in Schedule 150.320.4 based on the district in which the lot is located, except as otherwise regulated in Section 150.500 for conditional uses and those uses denoted with a **P***.

(A) Schedule 150.320.4. Height Regulations (Ord. 30515-05, passed 12-28-05; amend Ord. 31738-19, passed 5-29-19)

Schedule 150.320.4 HEIGHT REGULATIONS IN DOWNTOWN DISTRICTS		
	UBD	**CBD**
	Urban Business District	**Central Business District**
(1) Minimum Building Height	15 feet	20 feet
(2) Maximum Building Height	65 feet	None

150.320.5 Off-Street Parking Requirements

(A) Provision of Off-street Parking. Permitted uses, except multi-family dwellings and single-family attached uses in the UBD District, shall not be required to provide off-street parking as stated in sub-section 150.700.5, Parking in Downtown Districts. Multi-family and single-family attached uses in the UBD District shall provide one-half (.5) space per dwelling unit.

(B) Off-Street Parking Lots. When off-street parking areas are provided, these parking areas shall be provided in compliance with Section 150.800, Landscaping and Screening Regulations.

(C) Schedule 150.320.5. Off-Street Parking.

Off-street parking shall be located in compliance with the minimum setbacks, measured from the street right-of-way or property line, specified in Schedule 150.320.5. When cross access between two parking areas is required or provided, the parking setback shall not be required for the opening which accommodates the drive aisle, but it shall be required in all other areas that abut the shared property line. When shared parking, which spans the mutual property line, is required or provided, the parking setback is not required to be provided.

Schedule 150.320.5 Minimum Parking Setbacks for Surface Parking Lots		
	UBD	**CBD**
	Urban Business District	**Central Business District**
(1) Setback from side or rear lot line when abuts a nonresidential district	3 feet	3 feet
(2) Setback from side or rear lot line when abuts a residential district	10 feet	10 feet
(3) Setback from public street rights-of-way	10 feet	10 feet

(D) Landscaping. The area within the parking setback shall be landscaped in accordance with Section 150.800, Landscaping and Screening Regulations.

(E) Cross Access to Off-Street Parking Lots. Parking lots shall be interconnected with non-residential parking lots on adjacent properties to the maximum extent feasible. Permanent cross-access easements or other acceptable agreements for adjacent lots with interconnected

parking lots shall be submitted in language acceptable to the City's Law Department and the Zoning Administrator to ensure availability of shared parking to users.

(F) Loading Areas.

(1) Loading and service areas shall be provided in compliance with the regulations in Section 150.700, Off-Street Parking & Loading Regulations.

(2) Loading and service areas in the Downtown Districts shall be located in the side or rear yard. The preferred location for such uses shall be the rear yard, unless the Plan Board or Board of Zoning Appeals, or the Zoning Administrator, whichever is applicable according to the procedures in Section 150.115, determines that the placement in a side yard would lessen the impact on adjacent uses. Loading and service areas shall comply with the applicable parking setback requirements set forth in Schedule 150.320.5 and shall be screened in accordance with the provisions set forth in sub-section 150.800.10, Screening of Accessory Uses.

(G) The parking or storing of vehicles shall not be permitted in the established lawn areas. (Ord. 30515-05, passed 12-28-05; amend Ord. 30643-07, passed 3-21-07; amend Ord. 30762-08, passed 7-16-08; amend Ord. 31738-19, passed 5-29-19)

150.320.6 Outdoor Display and Outdoor Storage Regulations

Outdoor display of merchandise for sale and outdoor storage of goods and materials shall comply with the following.

(A) When permitted in Schedule 150.320.2, the outdoor display of merchandise for sale, except for motor vehicle sales establishments, shall comply with the following:

(1) Outdoor display of merchandise for sale shall be limited to products that are customarily associated with the operation of the principal business located on the premises and conducted by employees of such principal business. There shall be no outdoor display of merchandise for sale by any person operating or conducting a business that is different or distinct from the principal business conducted at that location except for temporary displays pursuant to sub-section 150.430.2, Permitted Temporary Uses.

(2) The area of the lot devoted to outdoor display shall not exceed 15 percent of the ground floor area of the building(s) on the lot. The Plan Board, Board of Zoning Appeals, or Zoning Administrator, whichever is applicable according to the procedures in Section 150.115, may grant an exception to this requirement when the ground floor area is 5000 square feet or less.

(3) The outdoor display area shall not be located in areas intended for traffic circulation, pedestrian access or parking as identified on the site design plan;

(4) The outdoor display area shall comply with the parking setback requirements set forth in Schedule 150.320.5 for the district in which the lot is located.

(5) Any proposed outdoor display areas shall be approved as part of a Site Design Plan Review in accordance with Section 150.115.

(B) When permitted in Schedule 150.320.2, the outdoor storage of general materials in association with a permitted use shall comply with the following:

(1) Outdoor storage of materials shall include the storage of goods, materials, or products associated with the principal use. The storage of radioactive, toxic or otherwise hazardous materials shall not be permitted.

(2) All outdoor storage of goods and materials shall be enclosed with a solid wall or fence, including solid gates. The wall or fence shall have a height tall enough to conceal all materials therein from the view of any observer standing at grade level. However, in no case shall the height of the fence or wall be less than six feet. The solid wall or fence and the associated gates shall be maintained in good condition. No barb or razor wire shall be permitted.

(3) All materials shall be stored in such a fashion as to be accessible to fire-fighting equipment at all times.

(4) Areas devoted to outdoor storage shall be located in a rear yard so that it is behind the principal building and not visible from any public street, unless the outdoor storage is located on a corner lot. It shall also be setback fifteen (15) feet from any property boundary that abuts a single-family residential district and in no case shall the side and rear setback of the enclosed area be less than ten (10) feet.

(5) Any proposed outdoor storage areas shall be approved as part of a Site Design Plan Review in accordance with Section 150.115.

(C) When permitted in Schedule 150.320.2, the outdoor storage of vehicles and equipment shall comply with the following:

(1) All stored vehicles or equipment shall be necessary to and customarily associated with the principal use.

(2) All vehicles or equipment shall be in a lawfully operable state. In no case shall inoperable vehicles be stored.

(3) All outdoor storage of vehicles and equipment shall be enclosed with a solid wall or fence, including solid gates. The wall or fence shall have a height tall enough to conceal all materials therein from the view of any observer standing at the grade level of an abutting residential district line. However, in no case shall the height of the fence or wall be less than six feet. The solid wall or fence and the associated gates shall be maintained in good condition. No barb or razor wire shall be permitted.

(4) All materials shall be stored in such a fashion as to be accessible to fire-fighting equipment at all times.

(5) Areas devoted to outdoor storage of vehicles and equipment shall be located in a rear yard so that it is behind the principal building and not visible from any public street, unless the outdoor storage is located on a corner lot. The enclosed area shall be setback fifteen (15) feet from any property boundary that abuts a

single-family residential district and in no case shall the side and rear setback of the enclosed area be less than ten (10) feet.

(6) Any proposed outdoor storage of vehicles or storage shall be approved as part of a Site Design Plan Review in accordance with Section 150.115. (Ord. 30515-05, passed 12-28-05; amend Ord. 30643-07, passed 3-21-07; amend Ord. 30762-08, passed 7-16-08)

150.320.7 Performance Standards

All uses shall comply with the following performance standards:

(A) Trash Receptacles. All solid waste products, including empty packing boxes, that result from any permitted principal, conditional, or accessory use shall either be disposed of, stored in buildings, or completely enclosed in containers. Such building, container, or dumpster shall be located in a side or rear yard and shall comply with the applicable parking setback set forth in Schedule 150.320.5 and shall be screened in accordance with the provisions set forth in sub-section 150.800.10, Screening of Accessory Uses.

(B) Lighting. The placement, orientation, distribution patterns and fixture types of outdoor lighting shall comply with the regulations set forth in sub-section 150.420.3, Exterior Lighting Standards.

(C) Enclosure. All uses and operations, except off-street parking and loading facilities, shall be performed wholly within enclosed buildings, unless specifically permitted otherwise.

(D) Outdoor Vending Machines. There shall be no outdoor vending machines visible from a public street.

(E) Overhead Utility Lines. All utility lines, electric, telephone, cable, TV lines, etc., shall be placed underground.

(F) Noise and Emission. No land use or structure shall be used or occupied in any manner to create dangerous or objectionable noise or emissions. All uses shall comply with the regulations regarding noise and emissions in sub-section 150.420.2, Performance Standards and in sub-section 150.420.4, Maximum Permissible Noise Levels. (Ord. 30515-05, passed 12-28-05)

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.

(A) Accessory Buildings. Accessory buildings that have a gross floor area of 200 square feet or less shall be located in a side or rear yard and shall comply with the applicable parking setback set forth in Schedule 150.320.5. All other buildings shall be considered principal buildings and shall conform to all lot and setback regulations and development plan review and approval requirements of the zoning district in which the lot is located.

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

(1) Location.

(a) Fences may be built up to, but not on, the property line, and shall be located entirely on the property of the person constructing it, except property owners, with permission from abutting property owners, may connect to fences on adjoining properties.

(b) In order to maintain clear vision lanes for vehicles and pedestrians, no opaque fences shall be permitted within ten (10) feet, in any direction, of the following points:

(i) At the intersection of a driveway and sidewalk (or front property line if there is no sidewalk);

(ii) At the intersection of a driveway and public right-of way;

(iii) At the intersection of any two driveways.

(c) All fences shall comply with sub-section 150.410, Visibility at Intersections.

(2) Materials and Construction.

(a) Approved fencing materials include stone, brick, finished wood, iron, metal, or synthetic look-alike products.

(b) No fence shall be electrified and/or topped or constructed with barbed wire.

(c) Only ornamental fences shall be permitted in front of a building, unless required for screening pursuant to Section 150.800, Landscaping & Screening Regulations or outdoor dining pursuant to Section 150.500, Conditional Use and Specific Use Regulations. In no case shall chain link fences be permitted in any front yard, abutting residentially zoned property or when visible from any private right-of-way, public circulation area, or public right-of-way.

(d) All fences shall be designed, constructed, and finished so that the supporting members face the property of the owner of the fence.

(e) All fences on a single parcel shall have a unified style along a single plane and for all fence segments visible from off the premises from any single direction.

(3) Height. No fence shall exceed eight (8) feet in height in any rear or side yard, or exceed forty-two (42) inches in height when located in front of a building, unless otherwise required by this Zoning Code.

(4) Screening and Landscaping.

(a) Screening and landscaping is not required for ornamental fences.

(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 sub-section 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.

(ii) Fences that are not located within the required setback areas shall be screened with the following landscape materials, planted not more than five (5) feet from the fence and between the fence and the property line:

(I) One shade tree shall be provided for every thirty (30) linear feet of fence length or fraction thereof, not including gates or other fence openings. 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;

(II) One shrub, that is twenty-four (24) inches in height at planting, shall be provided for every five (5) feet fence length or fraction thereof, not including gates or other fence openings; and,

(III) The landscaping may be flexible in its arrangement by appropriately aggregating the required plant materials.

(5) All fences shall be maintained in good condition, be structurally sound and attractively finished at all times.

(6) Any proposed fence shall be approved as part of a Site Design Plan Review in accordance with Section 150.115.

(C) Signs. Signs shall conform to the regulations specified in Section 150.900, Sign Regulations.

(D) Private Swimming Pools. Private swimming pools, for the use of residents in multi-family and single family attached developments, may be located in the Downtown Districts provided they comply with the regulations set forth below:

(1) All private swimming pools shall comply with the regulations in sub-section 150.305.5 (J) (1) – (6).

(2) Private swimming pools shall have a minimum setback of ten (10) feet from all lot lines.

(3) If the swimming pool is located on any minimum setback line, the perimeter of the swimming pool and associated accessory structures, such as but not limited to patios and decks, shall be screened. This screening shall be a combination of ornamental fencing or a brick wall and landscaping such that a solid, continuous visual screen is provided. In the case of in-ground pools, this ornamental fencing or brick wall shall fulfill the requirements mandated by sub-section 150.305.5 (J) (1). When landscaping is utilized in combination with ornamental fencing, trees and/or shrubs shall be adequately spaced to form a solid, continuous visual

screen within three (3) years after the initial installation. All shrubs and berms shall have a minimum height of three (3) feet, at the time of installation. (Ord. 30515-05, passed 12-28-05; amend Ord. 30643-07, passed 3-21-07; amend Ord. 31490-16, passed 5-04-16; amend Ord. 31738-19, passed 5-29-19)

150.320.9 Landscaping and Screening Requirements

Visual screening and landscape buffers shall be provided for all lots in nonresidential districts in accordance with the provisions set forth in Section 150.800, Landscaping & Screening Regulations. (Ord. 30515-05, passed 12-28-05)

150.320.10 Required Design Standards

The following design standards are included to encourage and direct development that supports Dayton's urban heritage and its prevalent built environment. It is the purpose of these design standards to produce buildings that are contextual and human scaled and to create the urban design and urban spaces advocated by the City's Comprehensive Plan.

(A) Applicability of Regulations. In addition to the development standards set forth in this Section, the design standards set forth in Schedule 150.320.10 shall apply to the exterior appearance and design of all new construction and building renovations in the Downtown Districts (UBD and CBD). Building or site alterations that conflict with these standards or that otherwise increase the degree of non-compliance with these standards shall not be permitted. The Plan Board, Board of Zoning Appeals, or Zoning Administrator, whichever is applicable according to the procedures in Section 150.115, may exempt applicants from these standards when the exterior building modifications will have no discernable impact on neighboring properties, the public, the public right-of-way, or those intended to occupy or use the proposed development.

(B) Encroachment. Any encroachment into the public right-of-way, as defined by Section 95.37 of the R.C.G.O., shall require Permits for Special Licenses and Privileges in Streets, which is issued by the Director of Public Works.

(C) Schedule 150.320.10. Design Standards in the Urban Business and Central Business Districts. (Ord. 30515-05, passed 12-28-05; amend Ord. 30762-08, passed 7-16-08, amend Ord. 31028-10, passed 10-20-10; amend Ord. 31490-16, passed 5-04-16; amend Ord. 31738-19, passed 5-29-19)

UBD & CBD	Design Standard
	(1) Building Orientation and First Floor Use
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	(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	(c) First floor street frontage design facilitates multi-tenant occupancy and walk-in commercial activity, such as retail.
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	(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) Window Placement
X	(a) For the first floor, the front facade of every building shall have transparent areas, equal to sixty (60) 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) 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.
X	(c) 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	(d) All facade openings, including windows and colonnades, shall be vertical in proportion.

UBD & CBD	Design Standard
	(3) Building Entrances, Architecture & Pedestrian Circulation
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	(b) Buildings, without public street frontage, shall provide a sidewalk or courtyard that connects to the sidewalk of a public street.
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	(d) Residential uses, with first floor public street frontage, shall provide a planted area/planter and/or a front stoop.
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	(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	(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) Parking
X	(a) All accessory parking shall be located to the rear or to side of principal building.
X	(b) Openings for parking access on a frontage line shall be a maximum of twenty-five (25) feet wide.
X	(c) Parking structures shall contain commercial uses along the frontage line. These commercial uses shall have a minimum depth of twenty (20) feet from the frontage line. The Plan Board or Board of Zoning Appeals, whichever is applicable under Section 150.115, may grant an exception to this requirement if the applicant presents compelling information that commercial 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 commercial uses in future, and the parking structure shall have architectural features, such as piers or columns to break up the wall mass. Or, display window shall be provided and outfitted with displays. 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	(d) 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.

150.320.11 Supplemental Regulations for Specific Uses.

Some permitted, conditional, or accessory uses as well as uses denoted with a **P*** in this Section shall be subject to additional regulations that are set forth in Section 150.500, Conditional Use and Specific Use Regulations. (Ord. 30515-05, passed 12-28-05)

150.320.12 Site Design Plan Review

All uses in a Downtown District shall be permitted only after site design plans have been reviewed and approved according to the procedures set forth in Section 150.115, Site Design Review Procedures. (Ord. 30515-05, passed 12-28-05)

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Section 150.325
Commercial Districts

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150.325.1 Purposes.

The Commercial districts (MNC, ENC, SNC, MGC, EGC, SGC) and their regulations are established in order to achieve the following purposes:

(A) To provide for orderly growth and development in the City of Dayton.

(B) To provide sufficient areas, in appropriate and convenient locations, for business activities and the exchange of goods and services.

(C) To reflect and reinforce the existing density and pattern of development while accommodating the need for future growth.

(D) To provide certainty to property owners, developers and neighbors about the limits of what is allowed in a Commercial district.

To carry out the above principles and to effectuate the goals and objectives in the City's Comprehensive Plan, it has been determined that the following Districts are necessary. The specific purposes for these Districts are:

(A) Neighborhood Commercial Districts. To accommodate retail and service uses that typically serve a limited neighborhood area, or other retail uses that serve a more general market area but can successfully operate within a neighborhood district. Such commercial uses are necessary to satisfy basic shopping and service needs that occur frequently and must, therefore, be located close to residential areas. The character of these districts is intended to be compatible with that of surrounding residential neighborhoods, and hours of operation are limited. Buildings in these districts are typically smaller in scale than those found in the general commercial districts.

(1) Development in the Mature Neighborhood Commercial (MNC) District should have an urban form and be pedestrian-oriented. Preservation of historic buildings is strongly encouraged.

(2) The Eclectic Neighborhood Commercial (ENC) District is not quite as urban as the MNC District, but pedestrian-oriented development and preservation of historic buildings is expected.

(3) The Suburban Neighborhood Commercial (SNC) District is characterized by a suburban development pattern. Although a pedestrian orientation is encouraged,

development may be more auto-oriented than the MNC or ENC commercial districts.

(B) General Commercial Districts. To provide a wide range of goods and services to a large consumer population coming from an extensive area.

(1) Development in the Mature General Commercial (MGC) District must have an urban development pattern. The buildings are to be at or close to the sidewalk. The land uses may be more intense, than typically found in other neighborhood commercial districts.

(2) Development in the Eclectic General Commercial (EGC) District may be more suburban in form, but pedestrian orientation is still a priority.

(3) The Suburban General Commercial (SGC) District will have a suburban development pattern, with the largest lots and the deepest building setbacks of all the commercial districts. (Ord. 30515-05, passed 12-28-05)

150.325.2 Permitted Uses.

(A) Permitted Uses. See sub-section 150.300.2, Use Regulations.

(B) Schedule 150.325.2 of Permitted Uses. (Ord. 30515-05, passed 12-28-05; amend Ord. 30643-07, passed 3-21-07; amend Ord. 30762-08, passed 7-16-08; amend Ord. 30893-09, passed 7-15-09; amend Ord. 31028-10, passed 10-20-10; amend Ord. 31142-11, passed 12-21-11; amend Ord. 31283-13, passed 12-18-13; amend Ord. 31490-16, passed 5-04-16; amend Ord. 31574-17, passed 7-05-17; amend Ord. 31738-19, passed 5-29-19)

Schedule 150.325.2
PERMITTED USES IN COMMERCIAL DISTRICTS

Land Use Category	MNC Mature Neighborhood Commercial	ENC Eclectic Neighborhood Commercial	SNC Suburban Neighborhood Commercial	MGC Mature General Commercial	EGC Eclectic General Commercial	SGC Suburban General Commercial
(1) Residential						
(a) Single-family dwelling, detached	1	1		1		
(b) Single-family dwelling, attached	**P***	**P***				
(c) Two-family dwelling	1	1				
(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				
(2) Residential/Work						
(a) Home Occupation	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]

Schedule 150.325.2
PERMITTED USES IN COMMERCIAL DISTRICTS

Land Use Category	MNC Mature Neighborhood Commercial	ENC Eclectic Neighborhood Commercial	SNC Suburban Neighborhood Commercial	MGC Mature General Commercial	EGC Eclectic General Commercial	SGC Suburban General Commercial
(b) Live-work unit	P	P		P		
(c) Work-live unit	P	P		P		
(3) Mixed Use						
(a) Mixed use/residential	C	C	C	C	C	C
(4) Community Facilities/Institutions						
(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	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
(5) Educational Facilities						
(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
(6) Recreation/Open Space						
(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						

Schedule 150.325.2
PERMITTED USES IN COMMERCIAL DISTRICTS

Land Use Category	MNC Mature Neighborhood Commercial	ENC Eclectic Neighborhood Commercial	SNC Suburban Neighborhood Commercial	MGC Mature General Commercial	EGC Eclectic General Commercial	SGC Suburban General Commercial
(f) Sports facility					C	C
(g) Theater, drive-in/outdoor					C	C
(h) Theater, indoor				C	C	C
(7) Office/Professional Services						
(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***
(8) Retail/Personal Services						
(a) Animal hospital/clinic					P[2]	P[2]
(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
(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
(9) Lodging						
(a) Bed & breakfast	**P***	**P***	**P***	**P***	**P***	**P***
(b) Hotel/motel				P	P	P

Schedule 150.325.2
PERMITTED USES IN COMMERCIAL DISTRICTS

Land Use Category	MNC Mature Neighborhood Commercial	ENC Eclectic Neighborhood Commercial	SNC Suburban Neighborhood Commercial	MGC Mature General Commercial	EGC Eclectic General Commercial	SGC Suburban General Commercial
(10) Motor Vehicle/Transportation						
(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[3]	A[3]
(e) Motor vehicle repair (including boats)				**P***	**P***	**P***
(f) Motor vehicle sales/rental (including boats)					**P*[3]**	**P*[3]**
(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
(11) Storage and Distribution						
(a) Recycling collection facility, small						P
(b) Self-storage facility, indoor					**P***	**P***
(c) Wholesale sales and/or distribution, indoor				C	C	C
(12) Other						
(a) Bee keeping	P[5]	P[5]	P[5]	P[5]	P[5]	P[5]
(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

Schedule 150.325.2
PERMITTED USES IN COMMERCIAL DISTRICTS

Land Use Category	MNC Mature Neighborhood Commercial	ENC Eclectic Neighborhood Commercial	SNC Suburban Neighborhood Commercial	MGC Mature General Commercial	EGC Eclectic General Commercial	SGC Suburban General Commercial
(l) Windmill, micro	**P***	**P***	**P***	**P***	**P***	**P***
(13) Accessory Uses						
(a) Accessory Buildings	A	A	A	A	A	A
(b) Animal boarding facility with no outside run or kennel[2]					A	A
(c) Composting, incidental	A[6]	A[6]	A[6]	A[6]	A[6]	A[6]
(d) Fences and Walls	A	A	A	A	A	A
(e) Home Occupation	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]
(f) Off-street parking areas and loading facilities	A	A	A	A	A	A
(g) Signs	A	A	A	A	A	A
(h) Solar energy structure	A[7]	A[7]	A[7]	A[7]	A[7]	A[7]
(i) Outdoor storage, equipment/vehicles					A	A
(j) Outdoor storage, goods & general materials					A	A
(k) Trash receptacles	A	A	A	A	A	A

Notes to Schedule 150.325.2:

[1] Only detached single-family dwellings and two-family dwellings that existed prior to August 1, 2006 shall be permitted. Newly constructed single-family detached and two-family dwellings shall not be permitted.

[2] Animal boarding facilities with no outside facilities may be accessory to a permitted animal hospital or clinic

[3] Motor vehicle sales establishments may have motor vehicle body shops provided these shops are accessory to the principal use.

[4] As regulated by Section 150.440, Home Occupation Regulations

[5] As further regulated by Section 150.420.1, Bee keeping

[6] As further regulated by Section 150.420.1.5, Composting, incidental

[7] As further regulated by Section 150.565, Solar energy structure

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

150.325.3 Lot and Setback Requirements

(A) Lot Requirements. The minimum lot requirements for permitted, conditional, and accessory uses in the Commercial Districts are specified in Schedule 150.325.3 for the district in which the lot is located, except as otherwise regulated in Section 150.350 for planned developments and as otherwise regulated in Section 150.500 for conditional uses and those uses denoted with a **P***.

(B) Setback Requirements. Every permitted use of land and all buildings and structures shall be located on a lot in a manner that maintains the required front, side, and rear setbacks set forth in Schedule 150.325.3 for the commercial district in which the lot is located, measured from the appropriate lot line, except as otherwise regulated in Section 150.500 for conditional uses and those uses denoted with a **P***. The area within each setback shall remain unobstructed by structures except as otherwise permitted in this Code. Any encroachment into the public right-of-way, as defined by Section 95.37 of the R.C.G.O., shall require Permits for Special Licenses and Privileges in Streets, which is issued by the Director of Public Works.

(C) Schedule 150.325.3 – Development Standards in Commercial Districts

Schedule 150.325.3
DEVELOPMENT STANDARDS IN COMMERCIAL DISTRICTS

	MNC	ENC	SNC	MGC	EGC	SGC
	Mature Neighborhood Commercial	**Eclectic Neighborhood Commercial**	**Suburban Neighborhood Commercial**	**Mature General Commercial**	**Eclectic General Commercial**	**Suburban General Commercial**
(1) **Lot Requirements**						
(a) Minimum lot size (unless specified below)	None	None	5,000 square feet	None	None	5,000 square feet
(i) Single-family dwelling, detached	2,000 square feet	5,000 square feet		2,000 square feet		
(ii) Single-family dwelling, attached	2,000 square feet	5,000 square feet				
(iii) Two-family dwelling	2,000 square feet	5,000 square feet				
(iv) Multi-family dwelling	2,000 square feet	5,000 square feet	5,000 square feet		5,000 square feet	5,000 square feet
(b) Minimum lot width	0 feet	0 feet	0 feet	0 feet	0 feet	0 feet
(c) Maximum lot coverage	100%	100%	100%	100%	100%	100%
(2) **Minimum Setback Depth**						
(a) Front Setback						
(i) Minimum	0 feet	0 feet	10 feet	0 feet	0 feet	10 feet
(ii) Maximum	10 feet[1]	20 feet[2]	50 feet[3]	10 feet[1]	20 feet[2]	None[4]
(b) Side Setback (unless specified below)[5]	0[5] feet	0[5] feet	0[5] feet	0[5] feet	0[5] feet	0[5] feet
(i) Adjacent to Single Family districts	3 feet	10 feet	15 feet	3 feet	20 feet	20 feet
(ii) Adjacent to Multi-Family districts	3 feet	10 feet	15 feet	3 feet	20 feet	20 feet

Schedule 150.325.3
DEVELOPMENT STANDARDS IN COMMERCIAL DISTRICTS

	MNC	ENC	SNC	MGC	EGC	SGC
	Mature Neighborhood Commercial	**Eclectic Neighborhood Commercial**	**Suburban Neighborhood Commercial**	**Mature General Commercial**	**Eclectic General Commercial**	**Suburban General Commercial**
(c) Rear setback (unless specified below)	0 feet	0 feet	0 feet	0 feet	0 feet	0 feet
(i) Adjacent to Single Family districts	3 feet	10 feet	15 feet	3 feet	20 feet	20 feet
(ii) Adjacent to Multi-Family districts	3 feet	10 feet	15 feet	3 feet	20 feet	20 feet

Notes to Schedule 150.325.3:
[1] As further regulated by sub-section 150.325.3 (D), Front Setback in MNC & MGC Districts.
[2] As further regulated by sub-section 150.325.3(G), Front Setback in ENC & EGC Districts.
[3] As further regulated by sub-section 150.325.3 (F), Front Setback in SNC District.
[4] As further regulated by sub-section 150.325.3 (E), Front Setback in SGC District.
[5] A building not sharing a common wall with an adjacent building shall maintain the minimum separation specified in the Building Code

(D) Front Setback in MNC and MGC Districts. In the **MNC** and the **MGC** Districts, a maximum ten (10) foot front setback is permitted as indicated in Schedule 150.325.3. No vehicular uses or parking areas shall be permitted in this front setback.

(E) Front Setback (Including Corner Side Setbacks) in SGC District. In the **SGC** District, if the building is setback fifty (50) or more feet from the public street right-of-way, then a thirty (30) foot landscaping area shall be provided parallel to any public street. If the building is located on a corner lot, the thirty (30) foot landscaping area shall be provided along both public streets.

(F) Front Setback (Including Corner Side Setbacks) in SNC District. In the **SNC** District, if the building is setback fifty (50) feet from the public street right-of-way, then a thirty (30) foot landscaping area shall be provided parallel to any public street. If the building is located on a corner lot, the thirty (30) foot landscaping area shall be provided along both public streets.

(G) Front Setback (Including Corner Side Setbacks) in the ENC and EGC District. In the **ENC** and **EGC** Districts, if the building is setback twenty (20) feet from the public street right-of-way, then a five (5) foot landscaping area shall be provided parallel to any public street. If the building is located on a corner lot, the five (5) foot landscaping area shall be provided along both public streets. (Ord. 30515-05, passed 12-28-05; amend Ord. 31142-11, passed 12-21-11)

150.325.4 Height Regulations

(A) The maximum permitted height in the **MNC, ENC, SNC, MGC, EGC** Districts is forty (40) feet, except as otherwise regulated in Section 150.500 for conditional uses and those uses denoted with a **P***.

(B) The maximum permitted height in the S**GC** District is fifty (50) feet, except as otherwise regulated in Section 150.500 for conditional uses and those uses denoted with a **P***. (Ord. 30515-05, passed 12-28-05)

150.325.5 Off-Street Parking Regulations

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) Parking Location in the MNC and MGC Districts. Off-street parking lots shall be located at the rear of the principal building. When the rear of the principal building cannot accommodate the amount of required parking, up to ten (10) percent of the off-street parking may be permitted to the side of the building.

(B) Parking Location in the ENC and EGC Districts. 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.

(C) Cross Access to Off-Street Parking Lots. Parking lots shall be interconnected with non-residential parking lots on adjacent properties to the maximum extent feasible. Permanent cross-access easements or other acceptable agreements for adjacent lots with interconnected parking lots shall be submitted in language acceptable to the City's Law Department and the Plan Board, the Board of Zoning Appeals, or the Zoning Administrator, whichever is applicable according to the procedures in Section 150.115, to ensure availability of shared parking to users.

(D) Setbacks for Joint Parking Facilities. When cross access between two parking areas is required or provided, the parking setback shall not be required for the opening which accommodates the drive aisle, but it shall be required in all other areas that abut the shared property line. When shared parking, which spans the mutual property line, is required or provided, the parking setback is not required to be provided

(E) Schedule 150.325.5 Minimum Parking Setbacks. Off-street parking shall be located in compliance with the minimum setbacks, measured from the property line, as specified below.

Schedule 150.325.5
Minimum Parking Setbacks for Surface Parking Lots

	MNC	ENC	SNC	MGC	EGC	SGC
	Mature Neighborhood Commercial	Eclectic Neighborhood Commercial	Suburban Neighborhood Commercial	Mature General Commercial	Eclectic General Commercial	Suburban General Commercial
(1) Setback from side or rear lot line:						
(a) When the lot line abuts a non-residential district	3 ft.	3 ft.	15 ft.	3 ft.	10 ft.	15 ft.

(b) When the lot line abuts a residential district	10 ft.	10 ft.	15 ft.	10 ft.	15 ft.	15 ft.
(2) Setback from public street rights-of-way:	10 ft.	10 ft.	15 ft.	10 ft.	10 ft.	15 ft.

(F) Off Street Parking Spaces. Parking spaces shall be provided in compliance with Section 150.700, Off-Street Parking & Loading Regulations. Vehicle parking and/or storage spaces shall be made of an impervious surface, such as asphalt or concrete. The area surrounding parked or stored vehicles shall be maintained pursuant to all applicable City ordinances, codes, standards, and regulations.

(G) Loading and Service Areas.

(1) Off-street loading and service areas shall be provided in compliance with the regulations in Section 150.700, Off-Street Parking & Loading Regulations.

(2) Loading and service areas in the Commercial Districts shall be located in the rear yard, unless the Plan Board, the Board of Zoning Appeals, or the Zoning Administrator, whichever is applicable according to the procedures in Section 150.115, determines that placement in a side yard would lessen the impact on adjacent residential uses.

(3) Loading and service areas shall comply with the applicable parking setback requirements set forth in Schedule 150.325.5 and shall be screened in accordance with the provisions set forth in sub-section 150.800.10, Screening of Accessory Uses.

(H) Screening. The area within the parking setback shall be landscaped and screened in accordance with Section 150.800, Landscaping and Screening Regulations. (Ord. 30515-05, passed 12-28-05; amend Ord. 30643-07, passed 3-21-07; amend Ord. 30762-08, passed 7-16-08; amend Ord. 31142-11, passed 12-21-11; amend Ord. 31574-17, passed 7-05-17)

150.325.6 Design Standards for Mature Neighborhood Commercial, MNC; Mature General Commercial, MGC; the Eclectic Neighborhood Commercial, ENC; Electric General Commercial, EGC; and the Suburban Neighborhood Commercial SNC, Districts.

(A) Purpose. The buildings in the MNC, MGC, ENC, EGC, and SNC Districts define the urban spaces and built environment in Dayton's commercial districts. Enhancing the quality and compatibility of these buildings and thereby protecting the character of these areas is of utmost importance.

The principles and criteria set forth below are intended to achieve among others the following purposes:

(1) To strengthen, protect, enhance and improve the existing visual and aesthetic character of the MNC, MGC, ENC, EGC, and SNC Districts.

(2) To guide development and/or redevelopment of the MNC, MGC, ENC, EGC, and SNC Districts, thereby preserving the historic and architectural resources;

(3) To ensure that the particular existing design features, which contribute to the unique character of the MNC, MGC, ENC, EGC and SNC Districts are retained and re-created in a manner that ensures the City will retain and enhance its sense of community.

(4) To ensure that new development and/or redevelopment respects the City's historic qualities and resources through compatible design.

(5) To protect and enhance property values.

(6) To provide standards for property owners, architects and contractors to aid in the preparation of appropriate plans;

(B) Applicability of Regulations. In addition to the development standards set forth in this Section, the design standards set forth in Schedule 150.325.6 shall apply to the exterior appearance and design of all new construction and building renovations in the Commercial Districts listed in Schedule 150.325.6. The Plan Board, Board of Zoning Appeals, or Zoning Administrator, whichever is applicable according to the procedures in Section 150.115, may exempt applicants from these standards when the exterior building modifications are minor in nature, meaning the design modifications will have no discernable impact on neighboring properties, the public, the public right-of-way, or those intended to occupy or use the proposed development.

(C) Schedule 150.325.6. Design Standards (Ord. 30515-05, passed 12-28-05; amend Ord. 31738-19, passed 5-29-19)

Schedule 150.325.6
Design Standards

MNC, ENC, & MGC	EGC	SNC	Design Standard
			(1) General Criteria
X	X	X	(a) Buildings and structures shall be designed and located on the site and be of a scale and massing to complement adjacent buildings and enhance the character of the surrounding area.
X	X	X	(b) Variety in the design of storefronts is desirable to create a lively and attractive pedestrian environment. There shall be no requirement that storefronts in one building use the same design elements.
X	X	X	(c) Continuous and safe pedestrian connections shall be provided between buildings, in a multi-building development, and between principal buildings, their parking lots, and public sidewalks and adjacent buildings and sites.
			(2) Architectural Criteria.

Schedule 150.325.6
Design Standards

MNC, ENC, & MGC	EGC	SNC	Design Standard
X	X	X	(a) Architectural style is not restricted, but the evaluation of the project's appearance shall be based on the quality of its design and its relationship to the prevailing design characteristics of the surrounding neighborhood.
X	X	X	(b) Supplemental architectural features, such as colonnades, columns, windows, awnings, pilasters, and cornices shall be on all walls that can be viewed from a public or private rights-of-way or circulation areas.
X			(c) If supplemental architectural features, such as colonnades, columns, pilasters, and cornices are present on adjacent buildings, then those architectural features shall be replicated on any rehabilitation, restoration, or new construction project to create a cohesive and coordinated built environment.
X	X	X	(d) Monotony of design in multiple building projects shall be avoided. Variation in detail shall be used to provide visual interest.
X	X	X	(e) Buildings and principal building entrances shall be oriented toward the public street so as to define the street edge and contribute to a dynamic pedestrian and street environment.
X	X	X	(f) Buildings surrounding public spaces shall be oriented so as to focus activity on that area.
X	X	X	(g) Any part of the building that is visible from a private right-of-way or public circulation or parking area shall have no more than six (6) feet of contiguous wall length devoid of windows, on any ground floor, unless the wall includes architectural features such as piers, columns, defined bays, or an undulation of the building so that a pedestrian scale, rhythm, and visual interest is created. In no case shall a continuous wall length be devoid of windows for more than twenty (20) feet.
X	X	X	(h) The pattern of architectural features, such as windows and doors, shall be placed upon the facade of a building in a pattern that creates a building fenestration that has a constant rhythm, a harmonious appearance, and is proportional to one another and surrounding buildings.
X	X	X	(i) Building components, such as cornices; eaves; and parapets, shall be composed on a building facade so as to create a harmonious relationship to one another.
X	X	X	(j) Facade openings, including windows, and colonnades shall be vertical in proportion.
X	X	X	(k) Facades may be supplemented by awnings.
X			(l) The rhythm of windows; doors; bays; and other architectural features, present on adjacent buildings shall be replicated on any restoration, renovation or new construction project.

Schedule 150.325.6 Design Standards			
MNC, ENC, & MGC	**EGC**	**SNC**	**Design Standard**
X	**X**		(m) A transition line shall be provided between the first and second stories, if a two-story building is constructed.
X			(n) The building mass, which is adjacent or parallel to the public sidewalk, shall be divided into vertical bays that may vary in width from twenty (20) to forty (40) feet, provided that the fenestration on adjacent buildings shall be replicated. These bays shall be architecturally defined using pilasters, columns, or recesses with transparent windows between the columns or pilasters. A minimum of sixty-five (65) percent of the storefront area (calculated using the area below the transition line) shall be transparent with display type windows, meaning windows that allow a view of the interior to be seen. The bottom edge of such window shall not be higher than three 3 feet above grade. Blank walls, those devoid of openings such as windows and transparent doors, shall not be permitted on the front facade of any building. In no case, shall a building have blank walls parallel to a public street or to its tangent, if the street is curved.
X	**X**	**X**	(o) Blank walls, those devoid of openings such as windows and transparent doors, shall not be permitted on the front facade of any building. In no case, shall a building have blank walls parallel to a public street or to its tangent, if the street is curved. A minimum of fifty (50) percent, of any wall area, on any ground floor, that can be seen from a public right-of-way, excluding alleys, shall have display-type windows, meaning windows that allow a view of the interior to be seen. The bottom edge of such window shall not be higher than three 3 feet above grade.
X	**X**	**X**	(p) Only twenty (20) percent of the windows that can be seen from all public rights-of-way, excluding alleys, shall be opaque.
			(3) <u>Building Materials</u>
X	**X**	**X**	(a) The structural frame of a building shall not be exposed to the exterior of a building.
X	**X**	**X**	(b) A combination of materials, textures, colors, and finishes shall be utilized to create visual interest.
X	**X**	**X**	(c) 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**	**X**	(d) All roof top equipment shall be enclosed in building materials that

Schedule 150.325.6 Design Standards			
MNC, ENC, & MGC	**EGC**	**SNC**	**Design Standard**
			match the structure or which are visually compatible with the structure.
X			(e) All rooftop mechanical equipment shall be screened from public view with parapets that are architecturally integral to the building. Mechanical roof screens are not acceptable.
X			(f) Building materials that are the same as or similar to those on adjacent commercial buildings shall be utilized, provided that if these similar materials are no longer available, then materials that are compatible with the surrounding buildings shall be utilized.

150.325.7 Outdoor Display and Outdoor Storage Regulations

Outdoor display of merchandise for sale and outdoor storage of goods and materials shall comply with the following.

(A) When permitted in Schedule 150.325.2, the outdoor display of merchandise for sale, except motor vehicle sales establishments, shall comply with the following:

(1) Outdoor display of merchandise for sale shall be limited to products that are customarily associated with the operation of the principal business located on the premises and conducted by employees of such principal business. There shall be no outdoor display of merchandise for sale by any person operating or conducting a business that is different or distinct from the principal business conducted at that location except for temporary displays pursuant to Section 150.430, Temporary Uses.

(2) The area of the lot devoted to outdoor display shall not exceed 15 percent of the ground floor area of the building(s) on the lot. 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 when the ground floor area is 5000 square feet or less.

(3) The outdoor display area shall comply with the building setback requirements set forth in Schedule 150.325.3 for the district in which the lot is located.

(4) The outdoor display area shall not be located in areas intended for traffic and pedestrian circulation or parking as identified on the site design plan;

(5) Any proposed outdoor display areas shall be approved as part of a Site Design Plan Review in accordance with Section 150.115.

(B) When permitted in Schedule 150.325.2, the outdoor storage of goods and general materials shall comply with the following:

(1) Outdoor storage of materials shall include the storage of goods, materials, or products associated with the principal use. The storage of radioactive, toxic or otherwise hazardous materials shall not be permitted.

(2) All outdoor storage of goods and materials shall be enclosed with a solid wall or fence, including solid gates. The wall or fence shall have a height tall enough to conceal all materials therein from the view of any observer standing at the grade level of an abutting residential district line. However, in no case shall the height of the fence or wall be less than six feet. The solid wall or fence and the associated gates shall be maintained in good condition.

(3) All materials shall be stored in such a fashion as to be accessible to fire-fighting equipment at all times.

(4) Areas devoted to outdoor storage shall be located in a rear yard so that it is behind the principal building and not visible from any public street, unless the storage is located on a corner lot. The enclosed area shall be setback fifteen (15) feet from any property boundary that abuts a single-family residential district and in no case shall the side and rear setback of the enclosed area be less than ten (10) feet.

(5) Any proposed outdoor storage areas shall be approved as part of a Site Design Plan Review in accordance with Section 150.115, Site Design Review Procedures.

(C) When permitted in Schedule 150.325.2, the outdoor storage of vehicles and equipment shall comply with the following:

(1) All stored vehicles or equipment shall be necessary to and customarily associated with the principal use.

(2) All vehicles or equipment shall be licensed and in a lawfully operable state. In no case shall inoperable vehicles be stored.

(3) All outdoor storage of vehicles and equipment shall be enclosed with a solid wall or fence, including solid gates. The wall or fence shall have a height tall enough to conceal all materials therein from the view of any observer standing at the grade level of an abutting residential district line. However, in no case shall the height of the fence or wall be less than six feet. The solid wall or fence and the associated gates shall be maintained in good condition. No barb or razor wire shall be permitted.

(4) All materials shall be stored in such a fashion as to be accessible to fire-fighting equipment at all times.

(5) Areas devoted to outdoor storage of vehicles and equipment shall be located in a rear yard so that it is behind the principal building and not visible from any public street, unless the outdoor storage is located on a corner lot. The enclosed area shall be setback fifteen (15) feet from any property boundary that abuts a single-family residential district and in no case shall the side and rear setback of the enclosed area be less than ten (10) feet.

(6) For Automobile service stations; Motor vehicle body shops; and Motor vehicle repair establishments, only two (2) outdoor storage spaces are permitted for each repair bay.

(7) Any proposed outdoor storage of vehicles or storage shall be approved as part of a Site Design Plan Review in accordance with Section 150.115. (Ord. 30515-05, passed 12-28-05; amend Ord. 30643-07, passed 3-21-07; amend Ord. 30762-08, passed 7-16-08)

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.

(A) Accessory Buildings. The height of the accessory building shall not exceed twenty (20) feet. Accessory buildings that have a gross floor area of 200 square feet or less shall be located in a side or rear yard and shall comply with the applicable parking setback set forth in Schedule 150.325.5. All other buildings shall be considered principal buildings and shall conform to all lot and setback regulations and development plan review and approval requirements of the zoning district in which the lot is located.

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

(1) Location.

(a) Fences may be built up to, but not on, the property line, and shall be located entirely on the property of the person constructing it, except property owners, with permission from abutting property owners, may connect to fences on adjoining properties.

(b) In order to maintain clear vision lanes for vehicles and pedestrians, no opaque fences shall be permitted within ten (10) feet, in any direction, of the following points:

(i) At the intersection of a driveway and sidewalk (or front property line if there is no sidewalk);

(ii) At the intersection of a driveway and public right-of way;

(iii) At the intersection of any two driveways.

(c) All fences shall comply with Section 150.410, Visibility at Intersections.

(2) Materials and Construction.

(a) Approved fencing materials include stone, brick, finished wood, iron, metal, or synthetic look-alike products.

(b) No fence shall be electrified and/or topped or constructed with barbed wire.

(c) Only ornamental fences shall be permitted in front of a building, unless required for screening pursuant to Section 150.800, Landscaping & Screening Regulations or outdoor dining pursuant to Section 150.500, Conditional Use and Specific Use Regulations. In no case shall chain link fences be permitted in any front yard, abutting residentially zoned property or when visible from any private right-of-way, public circulation area, or public right-of-way.

(d) All fences shall be designed, constructed, and finished so that the supporting members face the property of the owner of the fence.

(e) All fences on a single parcel shall have a unified style along a single plane and for all fence segments visible from off the premises from any single direction.

(3) Height. No fence shall exceed eight (8) feet in height in any rear or side yard, or exceed forty-two (42) inches in height when located in front of a building, unless otherwise required by this Zoning Code.

(4) Screening and Landscaping.

(a) Screening and landscaping is not required for ornamental fences.

(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 sub-section 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.

(ii) Fences that are not located within the required setback areas shall be screened with the following landscape materials, planted not more than five (5) feet from the fence and between the fence and the property line:

(I) One shade tree shall be provided for every thirty (30) linear feet of fence length or fraction thereof, not including gates or other fence openings. 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;

(II) One shrub, that is twenty-four (24) inches in height at planting, shall be provided for every five (5) feet fence length or fraction thereof, not including gates or other fence openings; and,

(III) The landscaping may be flexible in its arrangement by appropriately aggregating the required plant materials.

(5) All fences shall be maintained in good condition, be structurally sound and attractively finished at all times.

(6) Any proposed fence shall be approved as part of a Site Design Plan Review in accordance with Section 150.115.

(C) Parking. All parking lots shall comply with the screening and landscaping regulations in Section 150.800, Landscaping and Screening Regulations, and the parking requirements in Section 150.700, Off-Street Parking and Loading Regulations.

(D) Signs. Signs shall conform to the regulations in Section 150.900, Sign Regulations. (Ord. 30515-05, passed 12-28-05; amend Ord. 31490-16, passed 5-04-16; amend Ord. 31738-19, passed 5-29-19)

150.325.9 Landscaping and Screening Requirements.

Visual screening and landscape buffers shall be provided for all lots in Commercial Districts in accordance with the provisions set forth in Section 150.800, Landscaping and Screening Regulations. (Ord. 30515-05, passed 12-28-05)

150.325.10 Performance Standards

All uses shall comply with the following performance standards:

(A) Trash Receptacles. All solid waste products, including empty packing boxes, that result from any permitted principal, conditional, or accessory use shall either be disposed of, stored in buildings, or completely enclosed in containers. Such building, container, or dumpster shall be located in a side or rear yard and shall comply with the applicable parking setback set forth in Schedule 150.325.5 and shall be screened in accordance with the provisions set forth in Section 150.800, Landscaping and Screening Regulations.

(B) Lighting. The placement, orientation, distribution patterns and fixture types of outdoor lighting shall comply with the regulations set forth in sub-section 150.420.3, Exterior Lighting Standards

(C) Enclosure. All uses and operations, except off-street parking and loading facilities, shall be performed wholly within enclosed buildings, unless specifically permitted otherwise.

(D) Hours of Operation. In the **MNC, ENC, and SNC** Districts, business activity shall be open to the public only between the hours of 7:00 a.m. and 11:00 p.m. At the close of business, all illuminated signs and lights not necessary for security purposes shall be extinguished.

(E) Outdoor Vending Machines. In the **MNC, ENC, and SNC** Districts, there shall be no outdoor vending machines visible from the public right-of-way.

(F) Overhead Utility Lines. All utility lines, electric, telephone, cable, TV lines, etc., shall be placed underground.

(G) Noise and Emission. No land use or structure shall be used or occupied in any manner to create dangerous or objectionable noise or emissions. All uses shall comply with the regulations regarding noise and emissions in sub-section 150.420.2, Performance Standards and in sub-section 150.420.4, Maximum Permissible Noise Levels. (Ord. 30515-05, passed 12-28-05)

150.325.11 Supplemental Regulations for Specific Uses.

Some permitted, conditional, or accessory uses as well as uses denoted with a **P*** in this Section shall be subject to additional regulations that are set forth in Section 150.500, Conditional Use and Specific Use Regulations. (Ord. 30515-05, passed 12-28-05)

150.325.12 Site Design Plan Review

All uses in a Commercial District shall be permitted only after site design plans have been reviewed and approved according to the procedures set forth in Section 150.115. (Ord. 30515-05, passed 12-28-05)

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Section 150.330
Mixed-Use and Transitional Districts

§150.330.1 Purposes
§150.330.2 Permitted Uses
§150.330.3 Lot and Setback Requirements
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§150.330.5 Off-Street Parking Requirements
§150.330.6 Accessory Use Regulations
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§150.330.9 Outdoor Display Regulations
§150.330.10 Performance Standards
§150.330.11 Required Design Standards
§150.330.12 Development Plan Review

150.330.1 Purposes.

The Mixed-Use and Transitional districts (MX, T) and their regulations are established in order to achieve the following purposes:

(A) To provide for orderly growth and development in the City of Dayton.

(B) To reflect and reinforce the existing density and pattern of development while accommodating the need for future growth.

(C) To provide for and encourage a balanced, compatible mix of uses, rather than a separation of uses, in a pedestrian-friendly environment.

(D) To provide assurances to property owners, developers and neighbors about the limits of what is allowed in a Mixed-Use or Transitional district.

(E) To carry out the following specific purposes:

(1) Transitional (T) District. The purpose of this district is to support the rehabilitation and/or redevelopment of underutilized commercially zoned areas in the City where traditional business district zoning is inappropriate or unsuccessful. The Transitional District allows a mixture of uses appropriate for creating a mixed live-work environment at a scale and character compatible with the surrounding residential neighborhoods. Such uses include a limited range of "transitional" commercial services such as office and light industrial uses, residential development and live-work units. Retail and manufacturing uses are not permitted in this district.

(2) Mixed-Use Hub (MX) District. The purpose of this district is to concentrate high-density, mixed-use residential and commercial development at select major transit nodes or key thoroughfare intersections, encourage higher site and building design standards, and create a more attractive pedestrian environment. Uses incompatible with this purpose, such as most auto-related uses, industrial uses and single-family dwellings, are not permitted. All uses, buildings and structures will be sited and designed to be compatible with one another.

The MX District provides areas where regional or citywide shopping, employment or high-density residential uses may occur, and allows large-scale and tall buildings. This district allows a much greater intensity of development than the Mature, Eclectic or Suburban commercial districts, but less than the Downtown districts. A broad range of uses is permitted to encourage the development of diverse, interesting neighborhoods. Access to public transportation plays a key role in the development of the MX District. (Ord. 30515-05, passed 12-28-05)

150.330.2 Permitted Uses.

(A) Permitted Uses. See sub-section 150.300.2, Use Regulations.

(B) Schedule 150.330.2 of Permitted Uses. (Ord. 30515-05, passed 12-28-05; amend Ord. 30643-07, passed 3-21-07; amend Ord. passed 7-15-09, amend Ord. 31028-10, passed 10-20-10; amend Ord. 31142-11, passed 12-21-11; amend Ord. 31283-13, passed 12-18-13; amend Ord. 31490-16, passed 5-04-16; amend Ord. 31574-17, passed 7-05-17)

Schedule 150.330.2
PERMITTED USES IN THE MIXED-USE AND TRANSITIONAL DISTRICTS

	T Transitional District	MX Mixed-Use Hub
(1) Residential		
(a) Dwelling units on or above the first floor of a dwelling	P	P
(b) Single-family dwelling, detached	P[1]	
(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
(2) Group Residential		
(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
(3) Residential/Work		
(a) Home occupation	A[2]	A[2]
(b) Live-work unit	**P***	**P***
(c) Work-live unit	P	P

Schedule 150.330.2 PERMITTED USES IN THE MIXED-USE AND TRANSITIONAL DISTRICTS		
	T **Transitional District**	**MX** **Mixed-Use Hub**
(4) Community Facilities/Institutions		
(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) Public safety facility	P	P
(i) Utility substation/distribution facility, indoor	C	C
(j) Utility substation/distribution facility, outdoor	C	C
(5) Educational Uses		
(a) Day care center, child and adult	C	C
(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***
(6) Recreation/Open Space		
(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
(7) Office/Professional Services		
(a) Office – administrative/professional	P	P
(b) Office – medical/dental/health services	**P***	**P***
(c) Research/development facility, laboratory	P	P
(8) Retail/Personal Services		
(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

Schedule 150.330.2 PERMITTED USES IN THE MIXED-USE AND TRANSITIONAL DISTRICTS		
	T **Transitional District**	**MX** **Mixed-Use Hub**
(i) Service establishment, personal		P
(9) Lodging		
(a) Bed & breakfast		P
(b) Hotel/motel		P
(10) Motor Vehicle/Transportation		
(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
(g) Vehicle fueling station		C
(11) Storage and Distribution		
(a) Self-storage facility, indoor	C[3]	
(b) Warehouse storage, indoor	C	
(c) Wholesale sales and/or distribution, indoor	C	C
(12) Industrial		
(a) Manufacturing, light	C[4]	
(b) Microbottler	**P***	**P***
(13) Other		
(a) Bee keeping	P[6]	P[6]
(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***

Schedule 150.330.2 PERMITTED USES IN THE MIXED-USE AND TRANSITIONAL DISTRICTS		
	T **Transitional District**	**MX** **Mixed-Use Hub**
(14) Accessory Uses		
(a) Accessory buildings	A	A
(b) Composting, incidental	A[7]	A[7]
(c) Fences and walls	A	A
(d) Home occupation	A[2]	A[2]
(e) Off –street parking areas and loading facilities	A	A
(f) Outdoor merchandise sales/display	A	A
(g) Private swimming pools	A[5]	A[5]
(h) Signs	A	A
(i) Solar energy structure	A[8]	A[8]

Notes to Schedule 150.330.2:

[1] 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.
[2] As further regulated by Section 150.440, Home Occupation Regulations.
[3] Shall be permitted by right in non-residential buildings existing prior to August 1, 2006. Shall be conditionally permitted in newly constructed buildings.
[4] Shall only be conditionally permitted in a non-residential building existing prior to August 1, 2006.
[5] As further regulated by Section 150.330.6 (E), Private Swimming Pools.
[6] As further regulated by Section 150.420.1, Bee keeping
[7] As further regulated by Section 150.420.1.5, Composting, incidental
[8] As further regulated by Section 150.565, Solar energy structure

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

150.330.3 Lot and Setback Requirements

(A) Lot Requirements. The minimum lot requirements for permitted, conditional, and accessory uses in the Mix-Use and Transitional Districts are specified in Schedule 150.330.3 except as otherwise regulated in Section 150.500 for conditional uses and those uses denoted with a **P***.

(B) Setback Requirements. Every permitted use of land and all buildings and structures shall be located on a lot in a manner that maintains the required front, side, and rear setbacks set forth in Schedule 150.330.3, measured from the appropriate lot line, except as otherwise regulated in Section 150.500 for conditional uses and those uses denoted with a **P***. The area within the setback shall remain unobstructed by structures except as otherwise permitted in this Code.

(C) (C) Schedule 150.330.3. Development Standards in the Mixed Use and Transitional District

Schedule 150.330.3 DEVELOPMENT STANDARDS IN MIXED USE AND TRANSITIONAL DISTRICTS		
	T	**MX**
	Transitional	**Mixed-Use Hub**
(1) Lot Requirements		
(a) Minimum lot size	5,000 square feet	None
(b) Minimum lot width	50 feet	0 feet
(c) Minimum lot depth	None	None
(d) Maximum lot coverage		100%
(i) Residential Uses	75%	
(ii) Non-residential Uses	100%	
(2) Minimum Setback Depth		
(a) Front setback		
(i) Minimum	10 feet	0 feet
(ii) Maximum	15 feet	15 feet
(b) Side setback (unless specified below)	0 feet	0 feet
(i) Adjacent to Mature Residential Districts	10 feet	10 feet
(ii) Adjacent to Eclectic Residential Districts	15 feet	15 feet
(iii) Adjacent to Suburban Residential Districts	20 feet	20 feet
(c) Rear setback (unless specified below)	0 feet	0 feet
(i) Adjacent to Mature Residential Districts	10 feet	10 feet
(ii) Adjacent to Eclectic Residential Districts	15 feet	15 feet
(iii) Adjacent to Suburban Residential Districts	20 feet	20 feet

(D) Maximum Density. The maximum permitted density in the Transitional District shall be as set forth below:

(1) Density for all Single and Two-family Uses. The density of single and two-family residential development shall not exceed ten (10) dwelling units per acre. The total number of dwelling units shall be calculated by multiplying the total development area, exclusive of public rights-of-way existing at the time the development plan is submitted, by the number of dwelling units permitted per acre.

(2) Density for Multi-family Uses. The density of multi-family residential development shall not exceed sixteen (16) dwelling units per acre. The total number of dwelling units shall be calculated by multiplying the total development area, exclusive of

public rights-of-way existing at the time the development plan is submitted, by the number of dwelling units permitted per acre. (Ord. 30515-05, passed 12-28-05)

150.330.4 Height Regulations

Buildings and structures shall comply with the height regulations in Schedule 150.330.4, except as otherwise regulated in Section 150.500 for conditional uses and those uses denoted with a **P***

(A) Schedule 150.330.4. Height Regulations. (Ord. 30515-05, passed 12-28-05)

Schedule 150.330.4 Maximum Height Regulations		
	T	**MX**
	Transitional	**Mixed-Use Hub**
(1) Maximum Building Height (unless specified below)	40 feet	65 feet
(a) Adjacent to Mature Residential		65 feet
(b) Adjacent to Eclectic Residential		50 feet
(c) Adjacent to Suburban Residential		40 feet

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.

(A) Schedule 150.330.5. Minimum Parking Setbacks

Schedule 150.330.5 Minimum Parking Setbacks for Surface Parking lots		
	T	**MX**
	Transitional	**Mixed-Use Hub**
(1) **Setback from side or rear lot line:**		
(a) When the lot line abuts a non-residential district	3 ft.	3 ft.
(b) When the lot line abuts residential district	10 ft.	15 ft.
(2) **Setback from public street rights-of-way:**	10 ft.	10 ft.

(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. Of the five (5) vehicles, no more than one (1) shall be a recreational vehicle/equipment or utility trailer. For two-family dwellings, each dwelling unit shall have no more than three (3) vehicles, including recreational vehicles/equipment and/or utility trailers, parked or stored outside. Of the three (3) vehicles, no more than one (1) shall be a recreational vehicle/equipment or utility trailer.

(D) Cross Access to Off-Street Parking Lots. Parking lots shall be interconnected with non-residential parking lots on adjacent properties to the maximum extent feasible. Permanent cross-access easements or other acceptable agreements for adjacent lots with interconnected parking lots shall be submitted in language acceptable to the City's Law Department and the Plan Board, the Board of Zoning Appeals, or the Zoning Administrator, whichever is applicable according to the procedures in Section 150.115, to ensure availability of shared parking to users.

(E) Setbacks for Joint Parking Facilities. When cross access between two parking areas is required or provided, the parking setback shall not be required for the opening which accommodates the drive aisle, but it shall be required in all other areas that abut the shared property line.

When joint parking facilities, which span the mutual property line, are required or provided, the parking setback is not required to be provided

(F) Screening. The area within the parking setbacks shall be landscaped and screened in accordance with Section 150.800, Landscaping and Screening Regulations.

(G) Loading and Service Areas.

(1) Off-street loading and service areas shall be provided in compliance with the regulations in Section 150.700, Off-Street Parking & Loading Regulations.

(2) Loading and service areas shall be located in the rear yard, unless the Plan Board, Board of Zoning Appeals, or the Zoning Administrator, whichever is applicable according to the procedures in Section 150.115, determines that placement in a side yard would lessen the impact on adjacent residential uses.

(3) Loading and service areas shall comply with the applicable parking setback requirements set forth in Schedule 150.330.5 and shall be screened in accordance with the provisions set forth in sub-section 150.800.10, Screening of Accessory Uses. (Ord. 30515-05, passed 12-28-05; amend Ord. 30762-08, passed 7-16-08; amend Ord. 31490-16, passed 5-04-16; amend Ord. 31574-17, passed 7-05-17)

150.330.6 Accessory Use Regulations

(A) Accessory Buildings and Structures. Accessory buildings that have a gross floor area of 200 hundred square feet or less shall be located in a side or rear yard and shall comply with the parking setbacks set forth in Schedule 150.330.5. All other buildings shall comply with the setback regulations in Schedule 150.330.3 and site design plan review shall be required, except fences which are permitted pursuant to sub-section (C) below.

(B) Freestanding and Drive/Walk-up Uses. Uses such as ATMs, photo developing or coffee kiosks, freestanding drive-thru facilities, and similar uses sited in independent, stand-alone locations are considered principal uses and shall be treated as such.

(C) Signs. Signs shall comply with the regulations set forth in Section 150.900, Sign Regulations.

(D) Fences. All fences shall comply with the regulations set forth below:

(1) Location.

(a) Fences may be built up to, but not on, the property line, and shall be located entirely on the property of the person constructing it, except property owners, with written permission from abutting property owners, may connect to fences on adjoining properties.

(b) In order to maintain clear vision lanes for vehicles and pedestrians, no opaque fences shall be permitted within ten (10) feet, in any direction, of the following points:

(i) At the intersection of a driveway and sidewalk (or front property line if there is no sidewalk);

(ii) At the intersection of a driveway and public right-of way;

(iii) At the intersection of any two driveways.

(c) All fences shall comply with Section 150.410, Visibility at Intersections

(2) Materials and Construction.

(a) Approved fencing materials include stone, brick, finished wood, iron, metal, or synthetic look-alike products. Chain link fences shall be permitted provided that they are constructed of a dark, neutral-colored, non-reflective material, as approved by the Zoning Administrator, the Board of Zoning Appeals, or the Plan Board, whichever is applicable according to the procedures in Section 150.115.

(b) No fence shall be electrified and/or constructed or topped with barbed wire.

(c) Only ornamental fences shall be permitted in front of a building, unless required for screening pursuant to Section 150.800, Landscaping & Screening Regulations or outdoor dining pursuant to Section 150.500, Conditional Use and Specific Use Regulations. In no case shall chain link fences be permitted in any front yard, abutting residentially zoned property or when visible from any private right-of-way, public circulation area, or public right-of-way.

(d) All fences shall be designed, constructed, and finished so that the supporting members face the property of the owner of the fence.

(e) All fences on a single parcel shall have a unified style along a single plane and for all fence segments visible from off the premises from any single direction.

(3) Height. No fence shall exceed eight (8) feet in height in any rear or side yard, or exceed forty-two (42) inches in height when located in front of a building or corner side yard, unless otherwise required by this Zoning Code.

(4) Screening and Landscaping.

(a) Screening and landscaping is not required for ornamental fences.

(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 sub-section 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.

(ii) Fences that are not located within the required setback areas shall be screened with the following landscape materials, planted not more than five (5) feet from the fence and between the fence and the property line:

(I) One shade tree shall be provided for every thirty (30) linear feet of fence length or fraction thereof, not including gates or other fence openings. Each tree at the time of installation shall have a minimum caliper of 2.5 includes and a clear trunk height of at least six (6) feet;

(II) One shrub, that is twenty-four (24) inches in height at planting, shall be provided for every five (5) feet fence length or fraction thereof, not including gates or other fence openings; and,

(III) The landscaping may be flexible in its arrangement by appropriately aggregating the required plant materials.

(5) All fences shall be maintained in good condition, be structurally sound and attractively finished at all times.

(6) Any proposed fence shall be approved as part of a Site Design Plan Review in accordance with Section 150.115.

(E) Private Swimming Pools. Private swimming pools, for the use of residents in any residential development, may be located in the Transitional and Mixed-Use Hub Districts provided they comply with the regulations set forth below:

(1) All private swimming pools shall comply with the regulations in sub-section 150.305.5 (J) (1) – (6).

(2) Private swimming pools shall have a minimum setback of ten (10) feet from all lot lines.

(3) If the swimming pool is located on any minimum setback line, the perimeter of the swimming pool and associated accessory structures, such as but not limited to patios and decks, shall be screened. This screening shall be a combination of ornamental fencing or a brick wall and landscaping such that a solid, continuous visual screen is provided. In the case of in-ground pools, this ornamental fencing or brick wall shall fulfill the requirements mandated by sub-section 150.305.5 (J) (1). When landscaping is utilized in combination with ornamental fencing, trees and/or shrubs shall be adequately spaced to form a solid, continuous visual screen within three (3) years after the initial installation. All shrubs and berms shall have a minimum height of three (3) feet, at the time of installation.

(F) Regulations Regarding Recreational and Commercial Vehicles. In the Transitional and Mixed-Use Districts, recreational, motor and commercial motor vehicles shall comply with the regulations in sub-sections 150.305.5(E) and (F). (Ord. 30515-05, passed 12-28-05; amend Ord. 30643-07, passed 3-21-07; amend Ord. 30762-08, passed 7-16-08; amend Ord. 31490-16; passed 5-04-16; amend Ord. 31738-19, passed 5-29-19)

150.330.7 Landscaping and Screening Requirements

Visual screening and landscape buffers shall be provided for all zoning lots in the Mixed Use and Transitional Districts in accordance with the provisions set forth in Section 150.800, Landscaping and Screening Regulations.

150.330.8 Supplemental Regulations for Specific Uses

Some permitted, conditional, or accessory uses as well as uses denoted with a **P*** in this Section shall be subject to additional regulations that are set forth in Section 150.500, Conditional Use and Specific Use Regulations. (Ord. 30515-05, passed 12-28-05)

150.330.9 Outdoor Display Regulations

Outdoor display of merchandise for sale shall comply with the following:

(A) Outdoor display of merchandise for sale shall be limited to products that are customarily associated with the operation of the principal business located on the premises and conducted by employees of such principal business. There shall be no outdoor display of merchandise for sale by any person operating or conducting a business that is different or distinct from the principal business conducted at that location except for temporary displays pursuant to Section 150.115.

(B) The area of the lot devoted to outdoor display shall not exceed 15 percent of the ground floor area of the building(s) on the lot. The Plan Board, 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 when the ground floor area is 5000 square feet or less.

(C) The outdoor display area shall comply with the building setback requirements set forth in Schedule 150.330.3 for the district in which the lot is located.

(D) The outdoor display area shall not be located in areas intended for traffic and pedestrian circulation or parking as identified on the site design plan. (Ord. 30515-05, passed 12-28-05; amend Ord. 30672-08, passed 7-16-08)

150.330.10 Performance Standards

All uses in the T and MX Districts shall comply with the following performance standards:

(A) Trash Receptacles. All solid waste products, including empty packing boxes, that result from any permitted principal, conditional, or accessory use shall either be disposed of, stored in buildings, or completely enclosed in containers. Such building, container, or dumpster shall be located in a side or rear yard and shall comply with the applicable parking setback set forth in Schedule 150.330.5 and shall be screened in accordance with the provisions set forth in Section 150.800, Landscaping and Screening Regulations

(B) Lighting. The placement, orientation, distribution patterns and fixture types of outdoor lighting shall comply with the regulations set forth in sub-section 150.420.3, Exterior Lighting Standards. In the Transitional District, at the close of business, all illuminated signs and lights not necessary for security purposes shall be extinguished.

(C) Enclosure. All uses and operations, except off-street parking and loading facilities, shall be performed wholly within enclosed buildings, unless specifically permitted otherwise.

(D) Outdoor Vending Machines. In the Transitional and Mixed-Use Hub Districts, there shall be no outdoor vending machines.

(E) Overhead Utility Lines. All utility lines, electric, telephone, cable, TV lines, etc., shall be placed underground.

(F) Noise and Emission. No land use or structure shall be used or occupied in any manner to create dangerous or objectionable noise or emissions. All uses shall comply with the regulations regarding noise and emissions in sub-section 150.420.2, Performance Standards, and in sub-section 150.420.4, Maximum Permissible Noise Levels.

(G) Outdoor Storage. Outdoor storage shall not be permitted. (Ord. 30515-05, passed 12-28-05; amend Ord. 31738-19, passed 5-29-19)

150.330.11 Required Design Standards

(A) Purpose. The following development and design standards are established to insure that new development and redevelopment complies with the purpose and objectives of the Mixed Use Hub and Transitional Districts as well as the goals in the City's Comprehensive Plan.

(B) Applicability of Regulations. In addition to the development standards set forth in this Section, the design standards set forth in Schedule 150.330.11 shall apply to the exterior appearance and design of all new construction and building renovations in the Mixed Use Hub and the Transitional Districts. The Plan Board, the Board of Zoning Appeals, or the Zoning Administrator, whichever is applicable according to the procedures in Section 150.115, may exempt applicants from these standards when the exterior building modifications are minor in nature, meaning the design modifications will have no discernable impact on neighboring properties, the public, the public right-of-way, or those intended to occupy or use the proposed development. (Ord. 30515-05, passed 12-28-05; amend Ord. 30762-08, passed 7-16-08; amend Ord. 31738-19, passed 5-29-19)

Schedule 150.330.11 Design Standards		
T Transitional	**MX Mixed-Use Hub**	**Design Standard**
		(1) General Criteria.
X	**X**	(a) The proposal shall enhance and improve the character of the community and be appropriate and compatible with its surroundings in accordance with the intent, objectives, and development requirements set forth in this Section.
X	**X**	(b) Buildings, structures, and landscaping shall be designed and located on the site and be of a scale and massing to complement adjacent buildings and enhance the character of the surrounding area.
X	**X**	(c) Variety in the design of storefronts is desirable to create a lively and attractive pedestrian environment. There shall be no requirement that storefronts in one building use the same design elements. However, each building of a multiple building development shall have its own distinct identity, yet should also be compatible with adjacent buildings in terms of proportion and materials.
X	**X**	(d) Continuous and safe pedestrian connections shall be provided between buildings, in a multi-building development, and between principal buildings, their parking lots, public sidewalks and adjacent buildings and sites.
		(2) Architectural Criteria.
X	**X**	(a) Architectural style is not restricted, but the evaluation of the project's appearance shall be based on the quality of its design and its relationship to the prevailing design characteristics of the surrounding neighborhood.
X	**X**	(b) Buildings and principal building entrances shall be oriented toward the public street so as to define the street edge and contribute to a dynamic pedestrian and street environment.
	X	(c) Buildings surrounding public spaces shall be oriented so as to focus activity on that area.
X	**X**	(d) Any part of the building that is visible from a private right-of-way, public circulation area, or public street shall have no more than six (6) feet of contiguous wall length devoid of windows, on any ground floor, unless the wall includes architectural features such as piers, columns, defined bays, or an undulation of the building so that a pedestrian scale, rhythm, and visual interest is created. In no case shall a continuous wall length be devoid of windows for more than twenty (20) feet.
X	**X**	(e) The pattern of architectural features, such as windows and doors, shall be placed upon the facade of a building in a pattern that creates a building fenestration that has a constant rhythm, a harmonious appearance, and is proportional to one another and surrounding buildings.
X	**X**	(f) Facade openings, including windows, and colonnades shall be vertical in proportion.
X	**X**	(g) Facades may be supplemented by awnings, which shall be straight sheds without side flaps, not cubed or curved.
X	**X**	(h) The principal pedestrian entrance to the principal building shall be located on a frontage line, meaning adjacent to the public sidewalk.

X	**X**	(i)	If the principal building is located on a corner lot, a public entrance shall be located at the corner or on the public sidewalk with the most pedestrian traffic or the corner of the building. Corner entrances shall employ distinctive architectural features, such as recessed entries or decorative awnings, to distinguish these areas and to address the corner.
X	**X**	(j)	The building mass, which is adjacent or parallel to the public sidewalk, shall be divided into vertical bays that may vary in width from twenty (20) to forty (40) feet. These bays shall be architecturally defined using pilasters, columns, or recesses with transparent windows between the columns or pilasters.
X	**X**	(k)	A minimum of sixty-five (65) percent of the storefront area (calculated as the area inside the structural bay) shall be transparent with display type windows, meaning windows that allow a view of the interior to be seen. The bottom edge of such window shall not be higher than three 3 feet above grade. Only twenty (20) percent of the windows that can be seen from all public rights-of-way, except alleys, shall be opaque.
X	**X**	(l)	Blank walls, those devoid of openings such as windows and transparent doors, shall not be permitted on the front facade of any building. In no case, shall a building have blank walls parallel to a public street or to its tangent, if the street is curved.
		3)	Building Materials
X	**X**	(a)	Buildings shall have finish materials on all sides. Finish materials shall not include cinder block.
X	**X**	(b)	The structural frame of a building shall not be exposed to the exterior of a building.
X	**X**	(c)	A combination of materials, textures, colors, and finishes shall be utilized to create visual interest.
X	**X**	(d)	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**	(e)	All roof top mechanical equipment shall be enclosed in building materials that match the structure or which are visually compatible with the structure.

150.330.12 Site Design Plan Review

All uses in a Mixed Use or Transitional District shall be permitted only after site design plans have been reviewed and approved according to the procedures set forth in Section 150.115, Site Design Review Procedures. (Ord. 30515-05, passed 12-28-05)

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Section 150.335
Campus-Institutional District

§150.335.1 Purposes
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§150.335.3 Lot and Setback Requirements
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150.335.1 Purposes

The Campus-Institutional District (CI) and its regulations are established in order to accommodate institutional facilities and their associated uses in a manner that recognizes the unique development and location characteristics of large-scale institutional uses while respecting the needs of adjacent property owners and residents. As a result, this District sets out to both integrate institutional uses with adjacent non-residential neighborhoods and to adequately buffer institutional uses from adjacent low-density residential uses.

Therefore, the Campus-Institutional District and its regulations are established in order to accommodate civic buildings and other institutional facilities and their associated uses in a manner that:

(A) Provides for proper location of such facilities so as to increase the general convenience and safety of the City's residents;

(B) Provides for orderly growth and development in the City of Dayton;

(C) Reflects and reinforces the existing density and pattern of development while accommodating the need for future growth;

(D) Provides for and encourages a balanced, compatible mix of uses, rather than a separation of uses, in a pedestrian-friendly environment; and,

(E) Ensures that such facilities are compatible with adjacent land uses by requiring development plan review for any proposed development near the periphery of the District. (Ord. 30515-05, passed 12-28-05)

150.335.2 Permitted Uses.

(A) Permitted Uses. See sub-section 150.300.2, Use Regulations.

(B) Schedule 150.335.2 of Permitted Uses. (Ord. 30515-05, passed 12-28-05; amend Ord. 30643-07, passed 3-21-07; amend Ord. 30893-09, passed 7-15-09; amend Ord. 31028-10, passed 10-20-10, amend Ord. 31142-11, passed 12-21-11; amend Ord. 31283-13, passed 12-18-13; amend Ord. 31490-16, passed 5-04-16; amend Ord. 31574-17, passed 7-05-17)

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[1,2]	**When located 150 feet or less from the Campus-Institutional Zoning District Boundary[2]**
(1) Residential		
(a) Single-family dwelling, detached	P[1, 2, 6]	P [2, 6]
(b) Single-family dwelling, detached cluster	**P***[1, 2]	**P*** [2, 8]
(c) Single-family dwelling, attached	P[1, 2, 6]	**P*** [2, 8]
(d) Two-family dwelling	P[1, 2, 6]	**P*** [2, 8]
(e) Multi-family dwelling	P [1, 2, 7]	**P*** [2, 8]
(f) Family day care home for 1-6 children (type B)	P [2]	P [2]
(g) Family day care home for 7-12 children (type A)	P [2]	C [2]
(2) Group Residential		
(a) Adult care facility for 3-5 persons	P [2]	P [2]
(b) Adult care facility for 6-16 persons	C [1, 2]	C [2]
(c) Dormitory, fraternity, sorority	P [1, 2]	**P*** [2, 8]
(d) Residential facility for 5 or fewer persons	P [2]	P [2]
(e) Residential facility for 6-8 persons	P [2]	P [2]
(f) Residential facility for 9-16 persons	P [1, 2]	C [2]
(3) Residential/Work		
(a) Home occupation	A [2, 4]	A[4]
(b) Live-work unit	P [2]	P [2]
(c) Work-live unit	P [2]	**P***[2, 8]
(4) Community Facilities/Institutions		
(a) Assembly hall/auditorium	P [1, 2]	**P*** [2, 8]
(b) Cemetery	P [1, 2]	**P*** [2, 8]
(c) Church/religious assembly	P [1, 2]	**P*** [2, 8]
(d) Community center	P [1, 2]	**P*** [2, 8]

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[1,2]	**When located 150 feet or less from the Campus-Institutional Zoning District Boundary[2]**
(e) Congregate care facility/nursing home	P [1, 2]	**P*** [2, 8]
(f) Cultural institution	P [1, 2]	**P*** [2, 8]
(g) Hospital	P [1, 2]	**P*** [2, 8]
(h) Library	P [1, 2]	**P*** [2, 8]
(i) Public safety facility	P [1, 2]	**P*** [2, 8]
(j) Utility substation/distribution facility, indoor	P [1, 2]	**P*** [2, 8]
(k) Utility substation/distribution facility, outdoor	P [1, 2]	**P*** [2, 8]
(5) Educational Uses		
(a) Day care center, child and adult	P [1, 2]	**P*** [2, 8]
(b) School (public/private), college/university	P [1, 2]	**P*** [2, 8]
(c) School (public/private), elementary/secondary	P [1, 2]	**P*** [2, 8]
(d) School (public/private), specialty/personal instruction	P [1, 2]	**P*** [2, 8]
(6) Recreation/Open Space		
(a) Golf/swim/tennis club	P [1, 2]	**P*** [2, 8]
(b) Health club	P [1, 2]	**P*** [2, 8]
(c) Park/playground	P [1, 2]	P [2, 8]
(d) Recreation facility, indoor	P [1, 2]	**P*** [2, 8]
(e) Recreation facility, outdoor	P [1, 2]	**P*** [2, 8]
(f) Sports facility	**P*** [1, 2]	**P*** [2, 8]
(g) Theater, indoor	P [1, 2]	**P*** [2, 8]
(7) Office/Professional/Retail/Personal Services[3]	[3]	[3]
(a) Financial institution/bank	P [1, 2, 3]	**P***[2, 3, 8]
(b) Freestanding Drive-thru facility	P [1, 2, 3]	**P***[2, 3, 8]
(c) Drive-thru facility	P [1, 2, 3]	**P***[2, 3, 8]
(d) Office – administrative/professional	P [1, 2, 3]	**P***[2, 3, 8]
(e) Office – medical/dental/health services	P [1, 2, 3]	**P***[2, 3, 8]
(f) Research/development facility, laboratory	P [1, 2, 3]	**P***[2, 3, 8]
(g) Restaurant, indoor dining	P [1, 2, 3]	P [2, 3 ,8]

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[1,2]	**When located 150 feet or less from the Campus-Institutional Zoning District Boundary[2]**
(h) Restaurant, outdoor dining	**P*** [1, 2, 3]	**P*** [2, 3, 8]
(i) Retail establishment	P [1, 2, 3]	**P*** [2, 3, 8]
(j) Service establishment, business	P [1, 2, 3]	**P*** [2, 3, 8]
(k) Service establishment, personal	P [1, 2, 3]	**P*** [2 ,3, 8]
(8) Lodging		
(a) Bed & breakfast	P [1, 2]	**P*** [2, 8]
(b) Hotel/motel	P [1, 2]	P [2, 8]
(9) Motor Vehicle/Transportation		
(a) Helicopter landing facility	C [1, 2]	C [2]
(b) Parking lot as principal use	P [1, 2]	**P*** [2, 8]
(c) Parking structure	P [1, 2]	**P*** [2, 8]
(d) Transit turnaround	P [1, 2]	**P*** [2, 8]
(10) Other		
(a) Bee keeping	P[9]	P[9]
(b) Community garden	**P***[2]	**P***[2]
(c) Harvesting	**P***[2]	**P***[2]
(d) Solar energy structure	P [2]	C [2]
(e) Solar panel, building	**P*** [2]	**P*** [2]
(f) Telecommunication facility	See Section 150.600	See Section 150.600
(g) Utility box	**P*** [2]	**P*** [2]
(h) Wall mural	**P*** [2]	**P*** [2]
(i) Wind turbine	C [2]	C [2]
(j) Windmill, micro	**P*** [2]	**P*** [2]

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[1,2]	**When located 150 feet or less from the Campus-Institutional Zoning District Boundary[2]**
(11) Accessory Uses		
(a) Accessory buildings	A [2]	A[2]
(b) Composting, incidental	A[10]	A[10]
(c) Fences and walls	A [2]	A[2]
(d) Home Occupation	A [2, 4]	A[4]
(e) Off –street parking areas and loading facilities	A [2]	A[2]
(f) Outdoor merchandise sales/display	A [2]	A[2]
(g) Private swimming pools	A [2, 5]	A[2, 5]
(h) Signs	A [2]	A[2]
(i) Solar energy structure	A[11]	A[11]

Notes to Schedule 150.335.2:

[1] 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.
[2] As measured from any point along the property line of the zoning lot under review.
[3] 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.
[4] As further regulated by Section 150.440, Home Occupation Regulations.
[5] As further regulated by Section 150.335.6 (D), Private Swimming Pools.
[6] 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.
[7] 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.
[8] 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.
[9] As further regulated by Section 150.420.1, Bee keeping.
[10] As further regulated by Section 150.420.1.5, Composting, incidental.
[11] As further regulated by Section 150.565, Solar energy structure.

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

150.335.3 Lot and Setback Requirements

(A) Lot Requirements. The minimum lot requirements for permitted, conditional, and accessory uses in the Campus-Institutional are specified in Schedule 150.335.3 except as otherwise regulated in Section 150.500 for conditional uses and those uses denoted with a **P***.

(B) Setback Requirements. Every permitted use of land and all buildings and structures shall be located on a lot in a manner that maintains the required front, side, and rear setbacks set forth in Schedule 150.335.3, measured from the appropriate lot line, except as otherwise regulated in Section 150.500 for conditional uses and those uses denoted with a **P***. The area within the setback shall remain unobstructed by structures except as otherwise permitted in this Code.

(C) Schedule 150.335.3. Development Standards in the Campus-Institutional District

Schedule 150.335.3 Development Standards in the Campus Institutional District	
	CI
	Campus-Institutional
(1) **District Requirements**	
(a) Maximum lot coverage	100%
(2) **There shall be no minimum setback requirement when the Development Proposal is located more than 150 feet from the Campus-Institutional Zoning District Boundary**	
(3) **Minimum Setback Depth when the Development Proposal is 150 lineal feet or less from a Campus-Institutional Zoning District Boundary**	
(a) Front setback (unless specified below)	25 feet
(i) Adjacent to Mature Residential District	See Section 150.310.4 (E) & (F)
(ii) Adjacent to Eclectic Residential District	See Section 150.310.4 (E) & (F)
(b) Side setback (unless specified below)	10 feet
(i) Adjacent to Mature Residential District	10 feet
(ii) Adjacent to Eclectic Residential District	15 feet
(iii) Adjacent to Suburban Residential District	20 feet
(c) Rear setback (unless specified below)	10 feet
(i) Adjacent to Mature Residential District	10 feet
(ii) Adjacent to Eclectic Residential District	15 feet
(iii) Adjacent to Suburban Residential District	20 feet

(D) Setback Requirements for Outdoor Activity Areas. Outdoor activity areas shall comply with the setback requirements in Schedule 150.335.3. Outdoor activity areas shall include tennis courts, swimming pools, picnic shelters and similar types of facilities as determined by the Zoning Administrator.

(E) Landscaping and Incidental Structures Permitted. Hedges, shrubs, trees, flowers, plants, walks, latticework screens, mail boxes, lamp posts, bird baths, benches, and similar landscaping features and incidental structures shall be permitted in a required setback provided such landscaping features and incidental structures comply with the visual clearance requirements for corner lots set forth in Section 150.410, Visibility at Intersections. (Ord. 30515-05, passed 12-28-05; amend Ord. 30762-08, passed 7-16-08; amend Ord. 31142-11, passed 12-21-11)

150.335.4 Height Regulations

Buildings and structures shall comply with the height regulations in Schedule 150.335.4, except as otherwise regulated in Section 150.500 for some conditional uses and those uses denoted with a **P***

(A) Schedule 150.335.4. Height Regulations.

Schedule 150.335.4 Maximum Height Regulations		
	When more than 150 lineal feet from the Campus-Institutional Zoning District Boundary	**When 150 lineal feet or less from the Campus-Institutional Zoning District Boundary[1]**
(1) Maximum Building Height (unless specified below)	None	65 feet
(a) Adjacent to Mature Residential		50 feet
(b) Adjacent to Eclectic Residential		50 feet
(c) Adjacent to Suburban Residential		40 feet
Notes to Schedule 150.335.4: [1] As further regulated by sub-section 150.335.4 (B), Maximum Height		

(B) Maximum Height. The height of buildings and structures shall not exceed the standards in Schedule 150.335.4 unless the Board of Zoning Appeals determines that the proposed structure complies with the conditional use criteria set forth in Section 150.500. (Ord. 30515-05, passed 12-28-05)

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 150.335.5. Minimum Parking Setbacks.

Schedule 150.335.5 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 [2]	[1,2]
(2)	Setback from an alley	3 feet	3 feet
(3)	Setback from abutting residential district boundary	25 feet	25 feet[2]
(4)	Setback from all other lot lines		15 feet[2]

Notes to Schedule 150.335.5:

[1] 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.

[2] As further regulated by Section 150.335.9(C), Design of Parking Areas for Permitted & Conditional Uses

(B) Off-Street Parking Areas. Off-street parking areas shall conform to the regulations in Section 150.800, Landscaping and Screening Regulations. The parking or storing of vehicles shall not be permitted in the established lawn areas.

(C) Cross Access to Off-Street Parking Lots. Parking lots shall be interconnected with non-residential parking lots on adjacent properties to the maximum extent feasible. Permanent cross-access easements or other acceptable agreements for adjacent lots with interconnected parking lots shall be submitted in language acceptable to the City's Law Department and the Plan Board, the Board of Zoning Appeals, or the Zoning Administrator, whichever is applicable according to the procedures in Section 150.115, to ensure availability of shared parking to users.

(D) Setbacks for Joint Parking Facilities. When cross access between two parking areas is required or provided, the parking setback shall not be required for the opening which accommodates the drive aisle, but it shall be required in all other areas that abut the shared property line. When shared parking, which spans the mutual property line, is required or provided, the parking setback is not required to be provided

(E) Loading and Service Areas.

(1) Off-street loading and service areas shall be provided in compliance with the regulations in Section 150.700, Off-Street Parking & Loading Regulations.

(2) Loading and service areas in the Campus-Institutional District shall be located in the rear yard, unless the Plan Board, the Board of Zoning Appeals, or the Zoning Administrator, whichever is applicable according to the procedures in Section 150.115, determines that placement in a side yard would lessen the impact on adjacent residential uses. Loading and service areas shall comply with the applicable

parking setback set forth in Schedule 150.335.6 and shall be screened in accordance with the provisions set forth in sub-section 150.800, Screening of Accessory Uses.

(F) Screening. The area within the parking setbacks shall be landscaped and screened in accordance with Section 150.800, Landscaping and Screening Regulations.

(G) General Development Plan. As part of the general development plan required below, a parking master plan shall be submitted that takes into account the total parking needs of the institution including short-term and long term parking needs and locations for future parking facilities. See sub-section 150.335.9 for Development and Design Guidelines. (Ord. 30515-05, passed 12-28-05; amend Ord. 30643-07, passed 3-21-07; amend Ord. 30762-08, passed 7-16-08; amend Ord. 31283-13, passed 12-18-13; amend Ord. 31490-16, passed 5-04-16; amend Ord. 31738-19, passed 5-29-19)

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 150.335.6 (E).

(B) Fences and Walls. Fences and walls may be erected in the Campus-Institutional District in compliance with the requirements in Section 150.330.6 (D), Fences.

(C) Signs. Signs shall comply with the regulations in Section 150.900, Sign Regulations.

(D) Private Swimming Pools. Private swimming pools, for the use of residents in any residential development, may be located in the Campus-Institutional District provided they comply with the regulations set forth below:

(1) All private swimming pools shall comply with the regulations in sub-section 150.305.5 (J) (1) – (6).

(2) Private swimming pools shall have a minimum setback of ten (10) feet from all lot lines.

(3) If the swimming pool is located on any minimum setback line, the perimeter of the swimming pool and associated accessory structures, such as but not limited to patios and decks, shall be screened. This screening shall be a combination of ornamental fencing or a brick wall and landscaping such that a solid, continuous visual screen is provided. In the case of in-ground pools, this ornamental fencing or brick wall shall fulfill the requirements mandated by sub-section 150.305.5 (J) (1). When landscaping is utilized in combination with ornamental fencing, trees and/or shrubs shall be adequately spaced to form a solid, continuous visual screen within three (3) years after the initial installation. All shrubs and berms shall have a minimum height of three (3) feet, at the time of installation.

(E) Accessory Buildings for Single-Family, Two-Family and Multi-family Dwellings. Accessory buildings associated with single-family, two-family and multi-family uses shall comply with the following:

(1) For single-family and two-family dwellings, all accessory buildings shall comply with the regulations in Section 150.305.5 (A)-(D) and shall be reviewed

according to the procedures in Section 150.135.3, Zoning Certificate for an Individually Developed Single-Family and Two-family Dwellings or Use Accessory Thereto.

(2) For multi-family dwellings, all accessory buildings and uses shall comply with the regulations in Section 150.310.7 (C), Minimum Setbacks for Accessory Buildings and Uses in Multi-family Developments, and shall be reviewed according to the site design plan procedures in Section 150.115. (Ord. 30515-05, passed 12-28-05; amend Ord. 30643-07, passed 3-21-07; amend Ord. 30762-08, passed 7-16-08; amend Ord. 31490-16, passed 5-04-16)

150.335.7 Landscaping and Screening Requirements

Visual screening and landscape buffers shall be provided for all lots in the Campus-Institutional District in accordance with the provisions set forth in Section 150.800, Landscaping and Screening Regulations. (Ord. 30515-05, passed 12-28-05)

150.335.8 Supplemental Regulations for Specific Uses

Some permitted, conditional, accessory uses, or uses denoted within **P*** in this Section shall be subject to additional regulations that are set forth in Section 150.500, Conditional Use and Specific Use Regulations. (Ord. 30515-05, passed 12-28-05)

150.335.9 Development and Design Guidelines

The following development and design guidelines are established to ensure that all proposed development in the Campus-Institutional District complies with the purpose and objectives of this Section. The Plan Board and the Board of Zoning Appeals shall review plans for a proposed development giving particular consideration to the following:

(A) Principles for Reviewing Conditional Uses

Large-scale institutional uses can be located in close proximity to adjacent land uses in a manner that integrates them with non-residential uses and protects low-density residential uses. Given these goals, the Board of Zoning Appeals shall consider the following principles when reviewing applications for conditional use permits.

(1) Standards when a proposed conditional use is adjacent to, adjoins, or is across a public street from any Single Family Residential District or a Mature or Eclectic Multi-family District. When reviewing a conditional use of this nature, the Board of Zoning Appeals shall attempt to insure that residential properties are not negatively impacted by intrusions from the institutional uses. Therefore, the following standards shall be considered:

(a) Adequate screening, buffering, and landscaping shall be provided to limit the view of the proposed use, reduce the noise between incompatible land uses, and ease the transition from one zoning district to another.

(b) Natural features, especially mature trees, shall be preserved and supplemented with landscaping to buffer and screen adjacent residential districts. The Board of Zoning Appeals shall consider the setbacks,

building mass and type of use when determining the extent of landscaping required.

(c) At a minimum, a thirty (30) foot buffer and landscaping area shall be provided that contains no structures, with the exception of decorative fencing.

(d) Pedestrian connections from the campus-institution development shall be designed to minimize impacts on adjacent residential neighborhoods.

(e) The layout of parking areas, service area, entrances, exits, signs, lighting, noise sources or other potentially adverse influences shall be designed and located to protect the character of residential areas adjacent to the development.

(2) Standards when a proposed conditional use is adjacent to, adjoins, or is across a public street from any Commercial, Downtown, Mixed Use and/or Transitional Use Zoning District. When reviewing a conditional use of this nature, the Board of Zoning Appeals shall insure that institutional uses are integrated into the fabric of the surrounding development; thereby becoming a part of the neighborhood in which they reside. Therefore, the following standards shall be considered:

(a) Development proposals by institutional uses shall respect the existing built environment or the framework being created in an area through zoning and other applicable regulations.

(b) The building placement, scale, and massing as well as the location of off-street parking facilities shall reflect and reinforce the surrounding development. If the adjacent areas are vacant, the building placement, scale, and massing as well as the location of off-street parking facilities shall reflect the development standards in the abutting zoning district.

(B) General Criteria for Permitted and Conditional Uses.

(1) Buildings, structures and landscaping should be designed and located on the site and be of a scale and massing to:

(a) Enhance and protect the character of the surrounding area; and,

(b) Minimize any adverse influences.

(2) To provide connectivity, sidewalks shall be provided from facilities, which are meant for use by the general public like parks and playgrounds, to the sidewalks in the public rights-of-way.

(3) Buildings, which have any facade facing a public street, shall have at least one entrance facing the public street or its tangent, if the street is curved. Any facade or building wall facing a public street or its tangent, if the street is curved, shall have a harmonious building fenestration, and in no case shall a wall devoid of openings be visible from a public street.

(4) Delivery areas, loading zones, and mechanical equipment shall not face a public street and shall be screened from view of residentially zoned property by the use of walls, berms, and landscaping.

(5) Ambulance and emergency areas shall not abut a single-family residential district. If an ambulance or emergency area is visible from a public street, it shall have a buffer yard of twenty (20) feet. This buffer yard shall include a six (6) foot high masonry wall along the interior side of the landscaped area. One major tree is required per 30 lineal feet of wall or as appropriate to provide a tree canopy over the landscaped area. In addition, four feet high shrubs are required per 30 lineal feet of wall. Ground cover plants must fully cover the remainder of the landscaped area.

(6) All power plants, storage or maintenance buildings, which are visible from a public street, shall have buffer yard of twenty (20) feet. This buffer yard shall contain one major tree for every thirty (30) lineal feet of frontage or as appropriate to provide a tree canopy over the landscaped area. In addition, four (4) feet high shrubs are required per thirty (30) lineal feet of frontage. Ground cover plants must fully cover the remainder of the landscaped area.

(7) Site design plans shall include drawings, renderings, or perspectives of a professional quality that illustrate the scale; massing; roof shape; window size shape and spacing; and exterior materials of the structure. Site design plans shall also include samples of building materials.

(C) Design of Parking Areas for Permitted and Conditional Uses.

(1) Access to public streets from parking areas, service areas, and loading area within the development shall be designed to minimize traffic hazards or congestion and conflicts with pedestrians.

(2) Surface parking areas shall be located behind the front building line provided the Plan Board, at the time of general development plan review, may grant an exception from this requirement on the basis of the depth of the lot, the proximity of residentially zoned property, the unusual size or shape of the parcel, the location of mature trees, the location of principal buildings, or other similar factors. (Ord. 30515-05, passed 12-28-05)

150.335.10 Outdoor Display and Outdoor Storage Regulations

Outdoor display of merchandise for sale and outdoor storage of goods and materials shall comply with the following.

(A) When any portion of the zoning lot under review is within 150 feet of a residential district boundary, the outdoor display of merchandise for sale shall:

(1) Outdoor display of merchandise for sale shall be limited to products that are customarily associated with the operation of the principal business located on the premises and conducted by employees of such principal business. There shall be no outdoor display of merchandise for sale by any person operating or conducting a

business that is different or distinct from the principal business conducted at that location except for temporary displays pursuant to Section 150.430, Temporary Uses.

(2) Any proposed outdoor display area for merchandise shall be approved as part of the general development plan.

(3) The area of the lot devoted to outdoor display shall not exceed 10 percent of the ground floor area of the building(s) on the lot. 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 when the ground floor area is 5000 square feet or less.

(4) The outdoor display area shall comply with the building setback requirements set forth in Schedule 150.335.3.

(5) The outdoor display area shall not be located in areas intended for traffic and pedestrian circulation or parking as identified on the site design plan;

(B) The outdoor storage of goods and general materials shall be a conditional use associated with a permitted use and shall comply with the following:

(1) Outdoor storage of materials shall include the storage of goods, materials, or products associated with the principal use. The storage of radioactive, toxic or otherwise hazardous materials shall not be permitted.

(2) All outdoor storage of goods and materials shall be enclosed with a solid wall or fence, including solid gates. The wall or fence shall have a height tall enough to conceal all materials therein from the view of any observer standing at the grade level of an abutting residential district line. However, in no case shall the height of the fence or wall be less than six feet. The solid wall or fence and the associated gates shall be maintained in good condition.

(3) All materials shall be stored in such a fashion as to be accessible to fire-fighting equipment at all times.

(4) Areas devoted to outdoor storage shall be located in a rear yard so that it is behind the principal building and not visible from any public street. It shall also comply with the building setbacks set forth in Schedule 150.335.3. (Ord. 30515-05, passed 12-28-05; amend Ord. 30762-08, passed 7-16-08)

150.335.11 Performance Standards

All uses shall comply with the following performance standards:

(A) Trash Receptacles. All solid waste products, including empty packing boxes, that result from any permitted principal, conditional, or accessory use shall either be disposed of, stored in buildings, or completely enclosed in containers. Such building, container, or dumpster shall be located in a side or rear yard and shall comply with the applicable parking setback set forth in Schedule 150.335.5 and shall be screened in accordance with the provisions set forth in Section 150.800, Landscaping and Screening Regulations.

(B) Lighting. The placement, orientation, distribution patterns and fixture types of outdoor lighting shall comply with the regulations set forth in sub-section 150.420.3, Exterior Lighting Standards. If the use is located 150 feet or less from a residential zoning district boundary, at the close of business, all illuminated signs and lights not necessary for security purposes shall be extinguished.

(C) Enclosure. All uses and operations, except off-street parking and loading facilities, shall be performed wholly within enclosed buildings, unless specifically permitted otherwise.

(D) Outdoor Vending Machines. Within 150 feet of a residential zoning district boundary, there shall be no outdoor vending machines.

(E) Overhead Utility Lines. All utility lines, electric; telephone; cable TV lines; etc., shall be placed underground.

(F) Overnight Parking. Within 150 feet of any residential district boundary, there shall be no overnight parking or outdoor storage of commercial motor vehicles or buses.

(G) Noise and Emission. No land use or structure shall be used or occupied in any manner to create dangerous or objectionable noise or emissions. All uses shall comply with the regulations regarding noise and emissions in sub-section 150.420.2, Performance Standards, and sub-section 150.420.4, Maximum Permissible Noise Levels. (Ord. 30515-05, passed 12-28-05; amend Ord. 30762-08, passed 7-16-08)

150.335.12 Approval Procedures.

Development within a Campus-Institutional District shall be subject to the procedures set forth below:

(A) A general development plan, which includes either the entire District or a portion thereof shall be required for any project that includes multiple buildings, phased development, or a conditional use permit.

(B) Applications for a proposed conditional use or modifications to an existing conditional use in a Campus-Institutional District shall be reviewed and acted on according to the procedures set forth in Section 150.500, Conditional Use and Specific Use Regulations, except as otherwise set forth below for Campus Developments.

(C) Campus Developments.

(1) Requirements for Campus Development.

(a) The area of a proposed campus development shall be under single ownership, or if in several ownerships, the application shall be filed jointly by all owners of the properties included in the proposed Campus-Institutional boundaries.

(b) All land within a campus development shall be contiguous in that it shall not be divided into segments by any existing tract of land not owned by the applicant(s) of the campus development. Parcels that are located directly across the street from one another shall be considered contiguous.

(2) A general development plan shall be reviewed and approved for the entire campus development or for a contiguous land area that shall encompass no less than one quarter of the Campus-Institutional District according to the procedures set forth below:

(a) General Development Plan Submission Requirements. The property owner, a leaseholder, or a developer with an option to purchase or lease may file an application for General Development Plan Review. If the application is filed by an entity other than the property owner, the property owner shall sign the application. An application for General Plan review shall include the following maps, plans, designs and supplementary documents listed below unless determined by the Zoning Administrator to be inapplicable or unnecessary. Additional submission requirements may be included on the application or required by the Department of Planning and Community Development. The Zoning Administrator shall determine the number of copies to be submitted.

i. The location of all existing structures and access points.

ii. The general location of existing buildings, parking areas and access drives on parcels within 200 feet of the site.

iii. The general location of all proposed construction including buildings and structures, parking areas, and access points.

iv. The location of existing and proposed topography, major vegetation features, and wooded areas;

v. The general layout of the proposed internal road system, indicating the proposed vehicular right-of-way of all proposed streets and pedestrian circulation.

vi. A summary table showing total acres of the proposed development, the number of acres devoted to each type of land use including streets.

vii. Parking master plan as required by this Section.

viii. Proposed phases if the project is to be developed in stages indicating the phase(s).

ix. Other documentation needed for the evaluation of the general development plan as may be needed to evaluate the general concept of the proposed development.

(b) Plan Board Review of General Development Plans. The Plan Board shall review a General Development Plan to determine if such application complies with the review criteria set forth below. In order to approve a general development plan, the Plan Board shall determine that:

i. The plan is consistent with the Comprehensive Plan.

ii. The appropriate use and value of property within and adjacent to the area will be safeguarded.

iii. The development will result in a harmonious grouping of buildings within the proposed development and in relationship to existing and proposed uses on adjacent property.

iv. The development will have adequate open spaces.

v. The development will preserve and be sensitive to the characteristics of the site and the form of the built environment surrounding the subject site in a manner that complies with the applicable regulations set forth in this Zoning Code.

(c) Procedures. The application and plans for General Plan Review shall be reviewed in the same manner as major site design plans including the procedures in sub-section 150.115.8, Public Meeting Notice and sub-section 150.115.7, Site Design Plan Review Procedures, with the exception of sub-section 150.115.7 (D) (3), Issue of Zoning Certificate.

During the general development plan approval process, the applicant may request the review and approval of any needed conditional use permits. The Board of Zoning Appeals shall review the requested conditional use permits pursuant to Section 150.500, Conditional Use and Specific Use Regulations. If the general development plan lacks sufficient detail to grant the conditional use permits, the applicant shall return for conditional use approval at the time individual sites are to be developed.

(3) Once a general development plan is approved for a campus development, the review and approval of the final site design plan(s) for new construction or additions to existing development shall comply with the following:

(a) If any needed conditional use permits were secured when the general development plan was approved, a final site design plan shall be required, but it shall be reviewed and approved by the Zoning Administrator according to sub-section 150.335.12 (C)(4) below.

(b) If any needed conditional use permits were not secured when the general development plan was approved, the proposed development shall be reviewed according to the conditional use procedures in Section 150.500. If the site design plan was not approved concurrently with the conditional use permit, a final site design plan shall be required after the conditional use permit is granted, but it shall reviewed and approved by the Zoning Administrator according to sub-section 150.335.12 (C)(4) below.

(4) The applicant shall submit the required application and drawings as required by Section 150.115, Site Design Review Procedures, for site design plan review.

The Zoning Administrator shall review the proposal to determine that the proposal is not contrary to this Zoning Code; complies with all applicable requirements in this Zoning Code and the approved general development plan;

and will not result in any material adverse impact to the site or surrounding areas.

(5) Whenever land is rezoned to a Campus-Institutional District at the request of a property owner, a general development plan shall be submitted and approved prior to, at the time of, or within six (6) months of the date the proposed rezoning case is heard by the Plan Board. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09; amend Ord. 31142-11, passed 12-21-11)

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Section 150.340
Industrial Districts

§150.340.1 Purposes
§150.340.2 Permitted Uses
§150.340.3 Lot and Setback Requirements
§150.340.4 Height Regulations
§150.340.5 Off-Street Parking Requirements
§150.340.6 Outdoor Storage Regulations
§150.340.7 Accessory Use Regulations
§150.340.8 Landscaping and Screening Requirements
§150.340.9 Performance Standards
§150.340.10 Required Design Elements
§150.340.11 Supplemental Regulations for Specific Uses
§150.340.12 Development Plan Review

150.340.1 Purposes.

The Industrial districts (I-1, I-2, and BP) and their regulations are established in order to achieve the following purposes:

(A) To provide for orderly growth and development in the City of Dayton.

(B) To provide sufficient areas, in appropriate locations, for industrial activities and the production, distribution and exchange of goods and services.

(C) To reflect and reinforce the existing density and pattern of development while accommodating the need for future growth.

(D) To protect residential neighborhoods adjacent to industrial districts by establishing performance standards and restricting the types of establishments that might create noise, odors or other objectionable influences beyond the district boundaries.

(E) To provide certainty to property owners, developers and neighbors about the limits of what is allowed in an Industrial district.

(F) To carry out the following specific purposes:

(1) The Light Industrial (I-1) District is intended to provide urban sites for light industrial uses that conduct nearly all operations within an enclosed building, and do not have extensive outdoor storage areas or operations. While most buildings contain clean, light industrial uses, some commercial and office uses may also be included. As set forth in the City's Comprehensive Plan, all new industrial development will be consistent with the existing pattern of development.

(2) The General Industrial (I-2) District accommodates heavy industrial activities that may include very large structures, extensive exterior storage, exterior

mechanical operations, or heavy truck or equipment operations. As set forth in the City's Comprehensive Plan, all new industrial development will be constructed in a manner that is consistent with the existing pattern of development in the vicinity of the proposal.

(3) The Business Park (BP) District provides sites in more suburban areas of the city for modern, clean industry and supporting nonresidential land uses that complement industrial uses or require an industrial environment. Development is encouraged in the form of office-industrial parks or business parks with campus-style layouts and designs. Heavy industrial uses and outdoor storage are conditionally permitted in selected locations within the BP District. (Ord. 30515-05, passed 12-28-05)

150.340.2 Permitted Uses.

(A) Permitted Uses. See Section 150.300.2, Use Regulations.

(B) Schedule 150.340.2 of Permitted Uses.

Schedule 150.340.2
PERMITTED USES IN INDUSTRIAL DISTRICTS

	I-1 Light Industrial	I-2 General Industrial	BP Business Park
(1) Residential/Work			
(a) Single-family dwelling, detached	P[6]	P[6]	
(b) Multi-family dwelling	P[6]	P[6]	
(c) Two-family dwelling	P[6]	P[6]	
(d) Work-live unit	P		
(2) Community Facilities/Institutions			
(a) Cultural institution	P	P	**P***
(b) Protective care facility	C		
(c) Public safety facility	P	P	**P***
(d) Transitional Housing	C[3]		
(e) Utility substation/distribution facility, indoor	P	P	P
(f) Utility substation/distribution facility, outdoor	**P***	**P***	C
(3) Educational Uses			
(a) Day care center, child and adult	**P***[2]		**P***[2]
(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***
(4) Recreation/Open Space			
(a) Health club	P	P	P

Schedule 150.340.2 PERMITTED USES IN INDUSTRIAL DISTRICTS			
	I-1	**I-2**	**BP**
	Light Industrial	**General Industrial**	**Business Park**
(b) Model airplane flying facility	C	C	
(c) Recreation facility, indoor	P		
(d) Recreation facility, outdoor	C		
(e) Theater, drive-in/outdoor	C		
(5) Office/Professional Services			
(a) Financial institution/bank			P[2]
(b) Office – administrative/professional	P	P	P
(c) Office – medical/dental/health services			**P***
(d) Research/development facility, laboratory	P	P	P
(6) Retail/Personal Services			
(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[2]	P[2]	P[2]
(e) Restaurant, outdoor dining			**P*[2]**
(f) Retail establishment	P[2]	P[2]	P[2]
(g) Service establishment, business	P	P	P
(h) Service establishment, personal			P[2]
(7) Motor Vehicle/Transportation			
(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	

Schedule 150.340.2 PERMITTED USES IN INDUSTRIAL DISTRICTS			
	I-1	**I-2**	**BP**
	Light Industrial	**General Industrial**	**Business Park**
(8) Storage and Distribution			
(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[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
(9) Industrial			
(a) Construction & Demolition Waste Facility		C	
(b) Crematorium		C	
(c) Incinerator		C	
(d) Junkyard		C	
(e) Manufacturing, heavy		P[4]	C [1, 4]
(f) Manufacturing, light	P	P	P[1]
(g) Microbottler	**P***	**P***	**P***
(h) Recycling collection facility, large		P	
(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) Sanitary Waste Facility		C[5]	
(n) Sewage/liquid waste treatment facility		C	
(o) Solid waste composting facility, Class IV	**P***	**P***	
(p) Water supply/treatment facility	C	C	C
(10) Other			
(a) Adult entertainment	C	C	
(b) Bee keeping	P[7]	P[7]	P[7]
(c) Community garden	**P***	**P***	**P***
(d) Harvesting	**P***	**P***	**P***
(e) Plant nursery/greenhouse	C	P	
(f) Solar energy structure	**P***	**P***	**P***
(g) Solar panel, building	**P***	**P***	**P***
(h) Telecommunication facility	See Section 150.600	See Section 150.600	See Section 150.600

Schedule 150.340.2 PERMITTED USES IN INDUSTRIAL DISTRICTS			
	I-1	**I-2**	**BP**
	Light Industrial	**General Industrial**	**Business Park**
(i) Utility box	**P***	**P***	**P***
(j) Wall mural	**P***	**P***	**P***
(k) Wind turbine	C	C	C
(l) Windmill, micro	**P***	**P***	**P***
(11) Accessory Uses			
(a) Accessory Buildings	A	A	A
(b) Composting, incidental	A[9]	A[9]	A[9]
(c) Fences and walls	A	A	A
(d) Helicopter landing facility See §150.565	A	A	A
(e) Off-street parking areas and loading facilities	A	A	A
(f) Outdoor merchandise sales/display	A	A	A
(g) Signs	A	A	A
(h) Solar energy structure	A[10]	A[10]	A[10]

Notes to Schedule 150.340.2:
[1] All operations, including storage, shall take place in a principal and/or an accessory building.
[2] 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.
[3] 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.
[4] See Section 150.340.2 (C), Heavy Manufacturing Uses
[5] Subject to Section 184 of the City Charter
[6] Shall be permitted by right in a residentially constructed building existing prior to August 1, 2006.
[7] As further regulated by Section 150.420.1, Bee keeping.
[8] In the WP Overlay zoning district this use shall be further regulated by Section 105.565.76(D), Trucking/Motor Freight Terminal, Requirement in the WP Overlay District.
[9] As further regulated by Section 150.420.1.5, Composting, incidental.
[10] As further regulated by Section 150.565, Solar energy structure.

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

(C) Heavy Manufacturing Uses.

(1) All heavy manufacturing uses shall comply with the performance standards in Section 150.340.9.

(2) Heavy manufacturing shall not permit those uses and processes that are not provided for within the definition of Manufacturing, heavy unless the Zoning Administrator, the Board of Zoning Appeals, or the Plan Board, as applicable, determines that the proposed use or process is:

(a) Incidental to the proposed or existing operations; and

(b) Similar in nature to a use or process contemplated by the definition of Manufacturing, heavy and

(c) Conducted in a manner that will have no more impacts on the surrounding properties, the City's source Water Protection Area (SWPA), or the community than other uses permitted in the District; and

(d) Is not listed as a prohibited use in City's Source Water Protection Area (SWPA) and/or under subsection (b) in the definition of Manufacturing, heavy. (Ord. 30515-05, passed 12-28-05; amend Ord. 30762-08, passed 7-16-08; amend Ord. 30893-09, passed 7-15-09; amend Ord. 31028-10, passed 10-20-10, amend Ord. 31142-11, passed 12-21-11; amend Ord. 31283-13, passed 12-18-13; amend Ord. 31426-15, passed 7-29-15; amend Ord. 31490-16, passed 5-04-16; amend Ord. 31574-17, passed 7-05-17; amend Ord. 31738-19, passed 5-29-19)

150.340.3 Lot and Setback Requirements

(A) Lot Requirements. The minimum lot requirements for permitted, conditional, and accessory uses in the Industrial Districts are specified in Schedule 150.340.3 for the district in which the lot is located, except as otherwise regulated in Section 150.350 for planned developments and in Section 150.500 for conditional uses and those uses denoted with a **P***.

(B) Setback Requirements. Every permitted use of land and all buildings and structures shall be located on a lot in a manner that maintains the required front, side, and rear setbacks as set forth in Schedule 150.340.3, measured from the appropriate lot line, except as otherwise regulated in Section 150.500 for conditional uses and those uses denoted with a **P***. The area within each setback shall remain unobstructed by structures except as otherwise permitted in this Code.

(C) Schedule 150.340.3 - Development Standards in the Industrial Districts (Ord. 30515-05, passed 12-28-05; amend Ord. 30762-08, passed 7-16-08; amend Ord. 31142-11, passed 12-21-11)

Schedule 150.340.3 DEVELOPMENT STANDARDS IN INDUSTRIAL DISTRICTS			
	I-1	**I-2**	**BP**
	Light Industrial	**General Industrial**	**Business Park**
(1) Lot Requirements			
(a) Minimum lot size	None	None	1 acre
(b) Minimum lot width	None	None	125 feet
(c) Maximum lot coverage	100%	100%	100%
(2) Minimum Setback Depth			
(a) Front setback			

Schedule 150.340.3 DEVELOPMENT STANDARDS IN INDUSTRIAL DISTRICTS			
	I-1	**I-2**	**BP**
	Light Industrial	**General Industrial**	**Business Park**
(i) Minimum	0 feet	10 feet	25 feet
(ii) Maximum	15 feet	None	None
(b) Side setback (unless specified below)[1]	0 feet	0 feet	30 feet
(i) Adjacent to Mature Residential Districts	25 feet	30 feet	30 feet
(ii) Adjacent to Eclectic Residential Districts	25 feet	30 feet	30 feet
(iii) Adjacent to Suburban Residential Districts	25 feet	30 feet	30 feet
(c) Rear setback (unless specified below)[1]	0 feet	0 feet	30 feet
(i) Adjacent to Single-Family districts	25 feet	30 feet	30 feet
(ii) Adjacent to Multi-Family districts	25 feet	30 feet	30 feet
[1] Buildings shall not have operable windows, other than required fire exits, within fifty (50) feet of any residential zoning district boundary.			

150.340.4 Height Regulations

Buildings and structures shall comply with the height regulations in Schedule 150.340.4, except as otherwise regulated in Section 150.500 for conditional uses and those uses denoted with a **P***.

(A) Schedule 150.340.4. Height Regulations. (Ord. 30515-05, passed 12-28-05)

Schedule 150.340.4 HEIGHT REGULATIONS IN INDUSTRIAL DISTRICTS			
	I-1	**I-2**	**BP**
	Light Industrial	**General Industrial**	**Business Park**
(1) Maximum Building Height (unless specified below)	65 feet	None	65 feet
(a) Adjacent to Mature Residential Districts	40 feet	50 feet	50 feet
(b) Adjacent to Eclectic Residential Districts	40 feet	50 feet	50 feet
(c) Adjacent to Suburban Residential Districts	40 feet	50 feet	50 feet

150.340.5 Off-Street Parking Requirements

Off-street parking and loading shall conform to the regulations of Section 150.700, Off-street Parking and Loading Regulations, and to the parking regulations set forth below:

(A) Schedule 150.340.5 Minimum Parking Setbacks. Off-street parking lots shall be located in compliance with the minimum setbacks, measured from the street right-of-way or property line, as specified in Schedule 150.340.5, unless otherwise noted.

Schedule 150.340.5
MINIMUM PARKING SETBACKS FOR SURFACE PARKING LOTS

	I-1 Light Industrial	I-2 General Industrial	BP Business Park
(1) **Setback from side or rear lot line:**			
(a) When the lot line abuts a non-residential district	5 ft.	5 ft.	15 ft.
(b) When the lot line abuts a residential district	15 ft.	15 ft.	30 ft.
(2) **Setback from public street right-of-way:**			
(a) When opposite a residential zoning district	20 ft.	20 ft.	40 ft.
(b) When opposite a non-residential zoning district	10 ft.	10 ft.	10 ft.

(B) Screening. The area within the parking setbacks shall be landscaped and screened in accordance with Section 150.800, Landscaping and Screening Regulations.

(C) Parking Spaces and Access Drives. Off-street parking spaces and access drives shall be provided in compliance with Section 150.700, Off-Street Parking and Loading Regulations. The parking or storing of vehicles shall not be permitted in the established lawn areas.

(D) Parking Location in the **I-1** and **I-2** Districts. In the I-1 and I-2 Districts, 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 pursuant 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 the buffer yard required in Section 150.800.9 (B), Screening.

(E) Parking Location in the **BP** District. In the BP District, no more than twenty-five (25) percent of off-street parking spaces or one aisle parking bay across the front of the building, whichever is greater, shall be located in a building's front yard.

(F) Cross Access to Off-Street Parking Lots. Parking lots shall be interconnected with non-residential parking lots on adjacent properties to the maximum extent feasible. Permanent cross-access easements or other acceptable agreements for adjacent lots with interconnected parking lots shall be submitted and be acceptable to the City's Law Department and the Plan

Board, the Board of Zoning Appeals, or the Zoning Administrator, whichever is applicable according to the procedures in Section 150.115, to ensure availability of shared parking to users.

(G) Setbacks for Joint Parking Facilities. When cross access between two parking areas is required or provided, the parking setback shall not be required for the opening which accommodates the drive aisle, but it shall be required in all other areas that abut the shared property line. When shared parking, which spans the mutual property line, is required or provided, the parking setback is not required to be provided

(H) Loading and Service Areas.

(1) Off-street loading and service areas shall be provided in compliance with the regulations in Section 150.700, Off-street Parking & Loading Regulations.

(2) Loading and service areas shall be located in the rear yard, unless the Plan Board, the Board of Zoning Appeals, or the Zoning Administrator, whichever is applicable according to the procedures in Section 150.115, determines that placement in a side yard would lessen the impact on adjacent residential uses

(3) Loading and service areas shall comply with the applicable parking setback requirements set forth in Schedule 150.340.5 and shall be screened in accordance with the provisions set forth in sub-section 150.800.10, Screening of Accessory Uses. (Ord. 30515-05, passed 12-28-05; amend Ord. 30643-07, passed 3-21-07; amend Ord. 30762-08, passed 7-16-08; amend Ord. 31142-11, passed 12-21-11; amend Ord. 31738-19, passed 5-29-19)

150.340.6 Outdoor Storage Regulations

Outdoor activities permitted by right or conditionally permitted in the Industrial Districts in Schedule 150.340.2 shall be permitted only when associated with a principal use and in compliance with the regulations set forth below:

(A) Types of Storage.

(1) General Storage of Materials. This type of outdoor storage shall include the storage of goods materials, or products associated with the principal use.

(a) No storage of radioactive, toxic, or otherwise hazardous materials shall be permitted in any Industrial District, without written permission from the City's Fire Department.

(b) The bulk storage of sand, gravel, salt, and other similar materials is permitted only when such material is effectively prevented from spreading and effectively screened according to the requirements of Section 150.800.10, Screening of Accessory Uses.

(2) Storage of Fleet Vehicles. This type of storage shall include the storage of trucks, vans, or other vehicles that are used as part of the operation of a principal use, but not including privately owned customer or employee vehicles.

(3) Storage of Equipment for Sale or Rental. This type of storage shall include the storage of equipment, motorized and non-motorized, for sale and/or rental, such as tools, trucks, tractors, construction equipment, agriculture implements, and similar industrial equipment, but not including fleet vehicles or vehicles associated with automotive sales and rental.

(B) General Outdoor Storage of Materials.

(1) Areas devoted to general outdoor storage of materials shall be located in a rear yard only, behind the principal building, unless the Plan Board, the Board of Zoning Appeals, or the Zoning Administrator, whichever is applicable according to the procedures in Section 150.115, determines that placement in a side yard would lessen the impact on adjacent residential uses. Areas devoted to general outdoor storage shall comply with all building setbacks as set forth in Schedule 150.340.3.

(2) The area of the zoning lot devoted to general outdoor storage of materials shall not exceed twenty percent (20%) of the ground floor area of the principal building.

(C) Regulations for Landscape Materials. Outdoor storage and display areas shall not occupy an area greater in size than fifty percent (50%) of the floor area of the principal building and may be located in front of the principal building, provided:

(1) The area is landscaped or covered with porous materials; and,

(2) The area is devoted to the storage of living landscape materials such as trees, shrubs, and flowers.

(D) Outdoor Storage of Fleet Vehicles.

(1) The outdoor storage of fleet vehicles shall be permitted as an accessory use only when associated with operation of a permitted or conditionally permitted principal use.

(2) The accessory outdoor storage of fleet vehicles shall be located in a side or rear yard only, in compliance with the applicable parking setback set forth in Schedule 150.340.5.

(3) The area of the lot devoted to accessory outdoor storage of fleet vehicles shall not exceed twenty-five percent (25%) of the ground floor of the principal building.

(E) Outdoor Storage of Equipment for Sale or Rental.

(1) The outdoor storage of equipment for sale or rental shall be permitted as an accessory use only when associated with operation of a permitted or conditionally permitted principal use.

(2) The accessory outdoor storage of equipment for sale or rental shall be located in a side or rear yard only, in compliance with the applicable parking setback set forth in Schedule 150.340.5.

(F) Outdoor Storage. In any Industrial District, areas devoted to outdoor storage of any type shall be:

(1) Designed to store materials in compliance with all City Fire Codes and shall be accessible to fire fighting equipment at all times.

(2) Depicted on the site design plan and shall not occupy or interfere with traffic circulation, required parking areas, required open space, public sidewalks, or pedestrian access or circulation areas.

(G) Surfacing. Areas devoted to outdoor storage of any type, except storage for landscape materials, shall be paved with asphalt or concrete and maintained to be free of dust.

(H) Screening.

(1) All outdoor storage of materials, goods, equipment and overnight storage of vehicles shall be enclosed with a solid wall or fence, including solid gates. The wall or fence shall have a height tall enough to conceal all operations and materials therein from the view of any observer standing at the grade level at an abutting residential district line or a public street. However, in no case shall the height of the fence or wall be less than six (6) feet. The Plan Board, the Board of Zoning Appeals, or the Zoning Administrator, whichever is applicable according to the procedures in Section 150.115, may increase the minimum height of required screening when it is determined that additional height is needed to effectively conceal all materials from view of any observer standing at the grade level at an abutting residential district boundary line or a public street.

(2) All outdoor storage areas for materials, goods, equipment and overnight storage of vehicles that abuts an interstate highway, SR 49, SR 4, and US 35 shall be screened with evergreen trees planted twelve (12) feet on center. These trees shall be six (6) feet in height at the time of planting and shall be planted between the fence or wall, required in sub-section (1) above, and the right-of-way. These evergreen trees are in addition to the screening required by sub-section 150.340.7 (B)(4)(b).

(I) Signs. No signs shall be permitted in conjunction with outdoor activities except those otherwise in compliance with the sign regulations contained in Section 150.900, Sign Regulations. (Ord. 30515-05, passed 12-28-05; amend Ord. 30762-08, passed 7-16-08)

150.340.7 Accessory Use Regulations

Accessory uses are permitted in the Industrial Districts and shall conform to the regulations of this Section.

(A) Accessory Buildings. Accessory buildings that have a gross floor area of 200 hundred square feet or less shall be located in a side or rear yard and shall comply with the applicable parking setback set forth in Schedule 150.340.5. All other buildings shall comply with the setback regulations in Schedule 150.340.3 and site design plan review shall be required.

(B) Fences. All fences shall comply with the following regulations.

(1) Location.

(a) Fences may be built up to, but not on, the property line, and shall be located entirely on the property of the person constructing it, except property owners, with written permission from abutting property owners, may connect to fences on adjoining properties.

(b) In order to maintain clear vision lanes for vehicles and pedestrians, no opaque fences shall be permitted within ten (10) feet, in any direction, of the following points:

(i) At the intersection of a driveway and sidewalk (or front property line if there is no sidewalk);

(ii) At the intersection of a driveway and public right-of way;

(iii) At the intersection of any two driveways.

(c) All fences shall comply with Section 150.410, Visibility at Intersections.

(2) Materials and Construction.

(a) Approved fencing materials include stone, brick, finished wood, iron, or synthetic look-alike products. Chain link fences shall be permitted provided that they are constructed of a dark, neutral-colored, non-reflective material, as approved by the Plan Board, the Board of Zoning Appeals, or the Zoning Administrator, whichever is applicable according to the procedures in Section 150.115. Chain link fences shall not be permitted along any public street frontage or abutting property zoned residential.

(b) No fence shall be electrified or constructed of barbed wire. The Zoning Administrator may grant an exception to this requirement for water supply/treatment facilities, sewage/liquid waste treatment facility, and outdoor utility substations/distribution facilities when these facilities could pose a physical hazard.

(c) Only ornamental fences shall be permitted in front of a building, unless required for screening pursuant to Section 150.800, Landscaping & Screening Regulations.

(d) All fences shall be designed, constructed, and finished so that the supporting members face the property of the owner of the fence.

(e) All fences on a single parcel shall have a unified style along a single plane and for all fence segments visible from off the premises from any single direction.

(3) Height. No fence shall exceed eight (8) feet in height in any rear or side yard, or exceed forty-two (42) inches in height when located in front of a building, unless otherwise required by this Zoning Code.

(4) Screening and Landscaping.

(a) Screening and landscaping is not required for ornamental fences.

(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 Section 150.800.6, Landscaping Requirements Along Street Frontages, is planted within five (5) feet of the fence and between the fence and the property line.

(ii) Fences that are not located within the required setback areas shall be screened with the following landscape materials, planted not more than five (5) feet from the fence and between the fence and the property line:

(I) One shade tree shall be provided for every thirty (30) linear feet of fence length or fraction thereof, not including gates or other fence openings. 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;

(II) One shrub, that is twenty-four (24) inches in height at planting, shall be provided for every five (5) feet fence length or fraction thereof, not including gates or other fence openings; and,

(III) The landscaping may be flexible in its arrangement by appropriately aggregating the required plant materials.

(5) All fences shall be maintained in good condition, be structurally sound and attractively finished at all times.

(6) Any proposed fence shall be approved as part of a Site Design Plan Review in accordance with Section 150.115.

(C) Signs. Signs shall comply with the regulations set forth in Section 150.900, Sign Regulations.

(D) Trash Receptacles. All solid waste products, including empty packing boxes, that result from any permitted principal, conditional, or accessory use shall either by disposed of, stored in buildings, or completely enclosed in containers. Such building, container, or dumpster shall be located in a side or rear yard and shall comply with the applicable parking setback set forth in Schedule 150.340.5 and shall be screened in accordance with the provisions set forth in Section 150.800, Landscaping & Screening Regulations. (Ord. 30515-05, passed 12-28-05; amend Ord. 30762-08, passed 7-16-08; amend Ord. 31738-19, passed 5-29-19)

150.340.8 Landscaping and Screening Requirements

Visual screening and landscape buffers shall be provided for all lots in the Industrial Districts in accordance with the provisions set forth in Section 150.800, Landscaping & Screening Regulations. (Ord. 30515-05, passed 12-28-05)

150.340.9 Performance Standards

All uses in Industrial Districts shall comply with the following performance standards.

(A) Compliance with State and Federal Regulations. All uses shall comply with all applicable state and federal Environmental Protection Agency, OSHA and all other state and federal regulations that pertain to the operation of industrial uses.

(B) Storage Handling. All storage areas shall comply with the regulations set forth in Bulletin No. 30-L of the National Fire Protective Association and other fire protective codes of the City of Dayton. All parts shall be accessible to firefighting equipment.

(C) Liquid Waste. If liquid wastes are disposed of in containers, they shall be appropriate containers, and the wastes shall be removed from the site on a regular basis. Liquid waste or sewerage shall not be discharged into a reservoir, stream, or other open body of water or into a storm or sanitary sewer except as allowed by other codes of the City of Dayton, County, State or similar jurisdictional authority.

(D) Fire Hazards. Any processing that involves explosive materials shall be permitted only in the I-2 and BP Districts and only as a conditional use. Such use shall only be permitted when in compliance the regulations set forth in Section 150.500, Conditional Use and Specific Use Regulations, which shall be in addition to the requirements set forth below. All activities that involve the use of flammable or explosive material shall comply with the following:

(1) Any activity involving the use of flammable or explosive material shall be protected by adequate fire-fighting and fire-suppression equipment and by such safety devices as are normally used in the handling of any such material.

(2) Such activities shall only be permitted in structures having incombustible exterior walls.

(3) The applicable provisions of the Ohio Revised Code shall be complied with, and no explosives shall be stored, used or manufactured without first submitting to the Building Inspector a Certificate of Compliance from the State Fire Marshal or the City Fire Chief.

(4) No gasoline or other inflammable or explosive material shall be stored unless the location, plans and construction of the storage facility conform to the laws and regulations of the State and have the approval of the State Fire Marshal.

(E) Radioactive or Electrical Disturbances.

(1) No activity shall emit dangerous radioactivity at any point or electrical discharges affecting the operation, at any point, of any equipment other than that of the creator of such disturbances.

(2) Such disturbances shall be confined to the use and lot from which they originate and shall not occur across any lot line.

(3) The handling of radioactive materials, the discharge of such materials into the air and water, and the disposal of radioactive wastes shall be in conformity with the

applicable regulations of the Nuclear Regulatory Commission and the Ohio Environmental Protection Agency.

(F) Noise. All uses shall comply with the following noise standards.

(1) Measurement.

(a) A sound-level meter shall be used to measure sound pressure level.

(b) Noise levels shall be measured at the lot line for all lots in I-1 District and at the nearest I-2 or BP District boundary line for all lots in the I-2 and BP Districts.

(2) No use shall emit noise which exceeds the decibel limits set forth below:

Octave Band Frequency (cycles per second)	**Decibels**
0 to 74	76
75 to 149	71
150 to 299	63
300 to 599	59
600 to 1199	50
1200 to 2399	45
2400 to 4799	38
4800 and over	36

(G) Air Pollution.

(1) The emission of smoke, soot, fly ash, fumes and dust shall be controlled by precipitation devices, height of stack, rate of emission or other manner so that the quantity deposited at any Residential or Commercial District shall not be detrimental to or endanger the public safety, comfort, welfare or adversely affect property values.

(2) Dust and other types of air pollution borne by the wind from sources such as parking areas, storage areas or yards shall be kept to a minimum by appropriate landscaping, paving, oiling and other acceptable treatment.

(3) No use shall emit smoke for longer than eight (8) minutes in any hour that is a shade darker than Number 3 on the Standard Ringelmann Chart as issued by the U. S. Bureau of Mines.

(H) Odorous Matter.

(1) The emission of odorous matter in such quantities as to produce a public nuisance or hazard outside the building is prohibited in I-1 District.

(2) The emission of odorous matter in such quantities as to produce a public nuisance or hazard shall not be detectable beyond the lot line in an I-2 or BP District.

(I) Vibration. In the I-1, I-2, and BP Districts, vibrations that are perceptible without the aid of instruments shall not permitted beyond the lot occupied by the use generating such vibration.

(J) Noxious, toxic or corrosive fumes. Noxious, toxic or corrosive fumes or gasses shall not be emitted which shall be injurious to the property, vegetation or health of people residing or doing business in any adjacent Residential or Commercial District.

(K) Heat.

(1) In the I-1 District, no use shall generate heat that is perceptible without the aid of instruments at any point beyond the lot occupied by the use.

(2) In an I-2 and BP Districts, no use shall generate heat that is perceptible without the aid of instruments at any point beyond the district boundary.

(L) Erosion. No erosion, by either wind or water, which will carry objectionable substances onto neighboring properties shall be permitted.

(M) Water Pollution. Pollution of water is subject to the requirements and regulations established by the Ohio Water Commission, the Ohio Environmental Protection Agency, and the Army Corp of Engineers.

(N) Enforcement. Where determinations can be made by the Zoning Administrator or other authorized City employee, using equipment normally available or obtainable without extraordinary expense, such determinations or evaluation shall be made whenever possible before a notice of violation is issued. Where technical complexity or extraordinary personnel or equipment is required to make the determination, the Zoning Administrator may, in the case of the offenses under this Section, require the owner to either obtain and pay for an independent survey or share in the cost of an independent survey from a professional engineer experienced in the particular specialty.

(O) Overhead Utility Lines. All utility lines, electric; telephone; cable TV lines; etc. shall be placed underground.

(P) Lighting. All uses shall comply with the lighting regulations in sub-section 150.420.3, Exterior Lighting Standards. (Ord. 30515-05, passed 12-28-05)

150.340.10 Required Design Elements

(A) Purpose. The look and form of buildings and structures is of public concern because it is in the public's interest to insure that new developments and alterations to existing ones are reflective of the policies in the City of Dayton's Comprehensive Plan. The purpose of the following regulations is to provide standards by which the Plan Board, the Board of Zoning Appeals, or the Zoning Administrator can assess the appropriateness of proposed development based upon the goals in the City's Comprehensive Plan. The following regulations are to accomplish the following specific purposes:

(1) To prevent the creation or perpetuation of nuisances or blight in the City;

(2) To protect, strengthen, and enhance the existing visual and aesthetic character of the City;

(3) To protect and improve property values; and,

(4) To insure that redevelopment and new development reflect the existing overall character of the City, particularly in area where the existing built environment lacks architectural elements that merit replication or enhancement.

(B) Schedule 150.340.10. Required Design Elements. The design standards set forth in Schedule 150.340.10 shall apply to the exterior appearance and design of all new construction and building renovations in all Industrial Districts. The Plan Board, the Board of Zoning Appeals, or the Zoning Administrator, whichever is applicable according to the procedures in Section 150.115, may exempt applicants from these standards when the exterior building modifications are minor in nature, meaning the design modifications will have no discernable impact on neighboring properties, the public, the public right-of-way, or those intended to occupy or use the proposed development. (Ord. 30515-05, passed 12-28-05; amend Ord. 30762-08, passed 7-16-08)

Please see next page for Schedule

Schedule 150.340.10 Required Design Elements
(1) Building, structures, and landscaping shall be designed and located on the site and be of a scale to complement adjacent buildings and enhance the character of the surrounding area by having features that are appropriate and compatible with the existing building and structures. In making this determination, the Plan Board, Board of Zoning Appeals, or Zoning Administrator, whichever is applicable according to the procedures in Section 150.115, shall consider: (a) Building height, width, and general proportions; and, (b) Architectural features, including the pattern of windows and doors, roof pitch, cornice lines, and other decorative detail.
(2) When existing buildings are renovated, the distinguishing qualities or character of a property that contribute to the overall character shall not be destroyed. Removal or alteration of distinctive architectural features should be avoided, except for features that are determined to be non-contributing elements
(3) Unique and contemporary designs may be appropriate to the extent such design does not clearly detract from any architectural unity of a group of architecturally significant buildings.
(4) The use of contemporary interpretations of earlier design styles of surrounding structures is encouraged; including characteristics such as scale; massing; roof shape; and window size, shape and spacing.
(5) Window air-conditioning units, condenser elements, antennas, and other mechanical equipment shall not be located on the front of a building.
(6) Signs shall be designed to reflect the scale of the building, site, and surrounding characteristics. Buildings shall be designed for the appropriate placement of signage in a manner that compliments the building.
(7) Exterior security and ornamental lighting, when utilized, shall enhance building design and the adjoining landscape. Lighting standards and fixtures shall be of a design and size compatible with the building and adjacent areas.
(8) New construction shall be guided by the existing work to which it is attached or is associated, and should not be in stark contrast to the materials used on adjacent principal buildings.
(9) Building and principal building entrances shall be oriented toward the public street and contain the principal windows of the structure, with the exception of structures in a court-yard style.
(10) 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.
(11) All roof top equipment shall be enclosed in building materials that match the structure or which are visually compatible with the structure.

150.340.11 Supplemental Regulations for Specific Uses

Some permitted, conditional, or accessory uses as well as uses denoted with a **P*** in this Section shall be subject to additional regulations that are set forth in Section 150.500, Conditional Use and Specific Use Regulations. (Ord. 30515-05, passed 12-28-05)

150.340.12 Development Plan Review

All uses in an Industrial District shall be permitted only after site design plans have been reviewed and approved according to the procedures set forth in Section 150.115, Site Design Review Procedures. (Ord. 30515-05, passed 12-28-05)

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Section 150.343
Airport District

§150.343.1 Purposes
§150.343.2 Permitted Uses
§150.343.3 Lot, Setback, and Height Requirements
§150.343.4 Off-Street Parking Requirements
§150.343.5 Outdoor Storage Regulations
§150.343.6 Accessory Use Regulations
§150.343.7 Development Plan Review

150.343.1 Purpose.

The Airport (AP) District is designed to provide for the uses directly related to the Dayton International Airport. This district will be mapped on property that is an inherent part of the Dayton International Airport. (Ord. 30515-05, passed 12-28-05; amend Ord. 31738-19, passed 5-29-19)

150.343.2 Permitted Uses

All uses shall be developed in a unified manner and in accordance with the approved Master Plan for the Dayton International Airport. (Ord. 30515-05, passed 12-28-05)

150.343.3 Lot, Setback, and Height Requirements

All development in the AP District shall be in accordance with the approved Dayton International Airport Master Plan and shall also be in compliance with the applicable Federal Aviation Administration regulations. (Ord. 30515-05, passed 12-28-05)

150.343.4 Off-Street Parking Requirements

Off-street parking and loading shall conform to the regulations of Section 150.700, Off-street Parking and Loading Regulations. (Ord. 30515-05, passed 12-28-05)

150.343.5 Outdoor Storage Regulations

Outdoor activities permitted only when associated with a principal use and in compliance with the regulations set forth below:

(A) Outdoor Storage. Areas devoted to outdoor storage shall be designed to store materials in compliance with all City Fire Codes and shall be accessible to fire fighting equipment at all times.

(B) Surfacing. Areas devoted to outdoor storage of any type, except storage for landscape materials, shall be paved with asphalt or concrete and maintained to be free of dust.

(C) Screening. All outdoor storage areas shall be effectively screened from adjacent residential districts, public parking areas and public streets according to the screening requirements set forth in Section 150.800.10, Screening of Accessory Uses. The Zoning Administrator, may increase the minimum height of required screening when it is determined that additional height is needed to effectively conceal all materials from view of any observer standing at the grade level at an abutting residential district boundary line or a public street. (Ord. 30515-05, passed 12-28-05)

150.343.6 Accessory Use Regulations

(A) Fences. All fences shall comply with the following regulations.

(1) Location. All fences shall comply with Section 150.410, Visibility at Intersections.

(2) Materials and Construction.

(a) Approved fencing materials include stone, brick, finished wood, iron, or synthetic look-alike products. Chain link fences shall be permitted provided that they are constructed of a dark, neutral-colored, non-reflective material.

(b) All fences shall be designed, constructed, and finished so that the supporting members face the property of the owner of the fence.

(c) All fences on a single parcel shall have a unified style along a single plane and for all fence segments visible from off the premises from any single direction.

(3) Screening and Landscaping.

(a) Screening and landscaping is not required for ornamental fences.

(b) All fences, other than ornamental fences, when visible from public streets, shall be visually softened and reasonably screened from the street with the following landscape materials, planted not more than five (5) feet from the fence and between the fence and the property line:

(i) One shade tree shall be provided for every thirty (30) linear feet of fence length or fraction thereof, not including gates or other fence openings. Each tree at the time of installation shall have a minimum caliper of 2.5 includes and a clear trunk height of at least six (6) feet;

(ii) One shrub, that is twenty-four (24) inches in height at planting, shall be provided for every five (5) feet fence length or fraction thereof, not including gates or other fence openings; and,

(iii) The landscaping may be flexible in its arrangement by appropriately aggregating the required plant materials.

(4) All fences shall be maintained in good condition, be structurally sound and attractively finished at all times.

(B) Trash Receptacles. All solid waste products, including empty packing boxes, that result from any permitted principal, conditional, or accessory use shall either by disposed of, stored in buildings, or completely enclosed in containers. Such building, container, or dumpster shall be screened in accordance with the provisions set forth in Section 150.800, Landscaping and Screening Regulations. (Ord. 30515-05, passed 12-28-05)

150.343.7 Development Plan Review

All uses in the Airport District shall be exempt from the site design plan procedures set forth in Section 150.115 provided such uses and associated structures are in compliance with the approved Master Plan for the Dayton International Airport. (Ord. 30515-05, passed 12-28-05)

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Section 150.345
Historic Overlay Districts

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§150.345.21 Appeal of Landmark Commission Decision
§150.345.22 Amendment or Rescission of Designation
§150.345.23 Penalties for Non-Compliance

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:

(A) To promote and protect the health, safety, and general welfare of the public through the enhancement of property values, economic development, neighborhood stability, and the protection of property rights of all citizens.

(B) To preserve and enhance the varied architectural styles reflecting the distinct phases of the City of Dayton's history.

(C) To preserve, restore, reconstruct, renovate and/or rehabilitate historically or architecturally significant or contributing historic buildings, structures, sites and objects (hereafter referred to as "property" or "properties") in districts that possess integrity of location, design, setting, materials, workmanship, feeling, and association.

(D) To develop and maintain appropriate settings and environments for the properties and districts described in Section 150.345, Historic Overlay Districts.

(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. (Ord. 30515-05, passed 12-28-05; amend Ord 31490-16, passed 5-04-16)

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. Historic Overlay Districts may consist of an individual property or an area of two or more properties. 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 eligible for or listed on the National Register of Historic Places. The district may include a number of non-contributing properties, undeveloped parcels, or contributing properties that have not undergone rehabilitation. This district only governs major modifications in accordance with Section 150.345.7(A).

(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**,** eligible for or 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. This district only governs both minor and major modifications in accordance with Section 150.345.7(A) and (B).

(C) The HD-3 Historic Designation Overlay (HD-3) is an overlay district for single properties only 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. The designation only governs removal of a structure/demolition in accordance with Section 150.345.9.

(D) All properties designated as HD-1, HD-2, or HD-3 are collectively called the Dayton Register of Historic Places. (Ord. 30515-05, passed 12-28-05; amend Ord. 31490-16, passed 5-04-16; amend Ord. 31738-19, passed 5-29-19)

150.345.3 Nomination of Historic District.

(A) HD-1 Historic District Overlay.

(1) Any individual property or area eligible under this Section may be nominated for a HD-1 Historic District Overlay by a petition signed by property owner or property owners representing a majority of the parcels in the proposed district. 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 district. If 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 district 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 property or area eligible under this Section may be nominated for a HD-2 Historic District Overlay by a petition signed by the property owner or property owners representing a majority of the parcels in the proposed district.

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

(3) 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.

(4) The Landmark Commission shall determine the eligibility of the proposed district. If 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 district 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, or found to be significant in the context of the history of Dayton, Ohio, or the Nation, 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 district 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; amend Ord. 31490-16, passed 5-04-16; amend Ord. 31738-19, passed 5-29-19)

150.345.4 Boundaries.

(A) HD-1 Historic District Overlay. In determining the boundaries of a HD-1 Historic District Overlay, the following guidelines shall be controlling to ensure vista control and to protect the integrity of the proposed historic district:

(1) The property or area must be eligible for or listed on the National Register of Historic Places or contain locally designated landmarks.

(2) Complete streetscapes or block faces may be included in the district so long as a portion of the streetscape is listed on or eligible for the National Register of Historic Places**.** Topographic boundaries such as rivers, highways, or bridges may be used as boundary edges for the district. The district may also include some non-contributing properties, undeveloped parcels, contributing properties, or significant properties that have not undergone rehabilitation.

(B) HD-2 Historic District Overlay. In determining the boundaries of a HD-2 Historic District Overlay, the following guidelines shall be controlling to ensure vista control and to protect the integrity of the proposed historic district:

(1) The property or area must be eligible for or listed on the National Register of Historic Places or contain locally significant landmarks.

(2) Complete streetscapes or block faces may be included in the historic district so long as a portion of the streetscape includes historically and/or architecturally significant contributing properties that have undergone rehabilitation or restoration. Topographic boundaries such as rivers, highways, or bridges may be used as boundary edges for the district.

(C) HD-3 Historic District Overlay. Individual properties with a HD-3 Historic District Overlay have been determined to have historical and/or architectural 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. (Ord. 30515-05, passed 12-28-05; amend Ord. 31490-16, passed 5-04-16; amend Ord 31738-19, passed 5-29-19)

150.345.5 Activities Governed.

(A) HD-1 Historic District Overlay. Any major modification as set forth in sub-section 150.345.7, Class of Architectural Modifications, shall require a Certificate of Appropriateness.

(B) HD-2 Historic District Overlay. Any modification, whether major or minor**,** as set forth in sub-section 150.345.7, Class of Architectural Modifications, shall require a Certificate of Appropriateness.

(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. (Ord. 30515-05, passed 12-28-05; amend Ord. 31490-16, passed 5-04-16)

150.345.6 Architectural Design Standards.

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. Architectural design standards and landscaping controls preserve and protect the design or structural integrity of properties, groups of properties, and views to such properties.

(A) The following documents shall serve as the City's Architectural Design Standards and will govern the decisions of the Landmark Commission and the Preservation Officer in the issuance of Certificates of Appropriateness:

(1) The United States Secretary of the Interior's *Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings*, as they may from time to time be amended by the Secretary of the Interior.

(2) The City of Dayton's *Blueprint for Rehabilitation*, current edition**.**

(3) The standards contained in this and other referenced Sections of the City of Dayton's Zoning Code.

(4) Any set of supplemental guidelines or resolutions that interpret and clarify these standards adopted by the Landmark Commission.

(B) The Landmark Commission may waive the Architectural Design Standards for non-contributing properties so long as the proposed alteration will not adversely affect the overall architectural integrity of the district. (Ord. 30515-05, passed 12-28-05, amend Ord. 31738-19, passed 5-29-19)

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:

(1) Removal of a Contributing or Significant structure, addition, or porch, except those listed in sub-section 150.345.7 (B), Minor Modifications.

(2) Construction of a new principal structure.

(3) Removal of decorative details such as chimneys, latticework, gables, gingerbread, soffits, awnings and shutters.

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

(5) Construction, modification or removal of siding, door, and window openings.

(6) Painting of unpainted stone, brick or masonry.

(7) Removal of a carriage house or any outbuilding deemed to have architectural and/or historical significance.

(8) Changes to significant interior spaces, as identified at the time of HD-1, HD-2, or HD-3 designation, that are open to the public and that have received public assistance shall be consistent with the Architectural Design Standards set forth in this Section.

(9) Any change or modification determined by the Preservation Officer to require Landmark Commission review.

(B) Minor Modifications. Minor modifications include the following alterations governed by the Architectural Design Standards:

(1) Repainting of existing painted surfaces.

(2) Repair or replacement of siding, doors, windows, roofs, gutters, and downspouts.

(3) Repair or replacement of decorative detail, such as chimneys, latticework, gables, etc.

(4) Installation of, or changes to, off-street parking and loading including curb cuts.

(5) Repair of exterior surfaces such as caulking, masonry repointing, and nonabrasive cleaning.

(6) Repair, replacement, removal or installation of fencing.

(7) Construction of new, accessory buildings, such as detached garages and storage buildings that meet the minimum requirements for such structures as determined by the Preservation Officer.

(8) The removal of non-contributing structures, and non-contributing additions, so long as the applicant has submitted a Mitigation Plan that complies with sub-section 150.345.10, Mitigation Plan Required.

(9) The removal of a contributing addition that has suffered severe damage, so long as the applicant has submitted a Mitigation Plan that complies with sub-section 150.345.10, Mitigation Plan Required.

(10) Substitution of existing signage with new signage in compliance with sub-section 150.345.14, Signs.

(11) Major regrading and removal of trees.

(12) Installation or replacement of outdoor or security lighting. (Ord. 30515-05, passed 12-28-05; amend Ord. 31490-16, passed 5-04-16; amend Ord. 31738-19, passed 5-29-19; amend Ord. 31752-19, passed 9-4-19)

150.345.8 Class of Properties.

All properties within a historic district shall be classified by the Landmark Commission as follows**:**

(A) Listed Properties. Properties that are listed on the National Register of Historic Places or are locally designated landmarks.

(B) Contributing Properties. A property, structure, or site within a historic district which supports the historical and architectural context of the area's association to broad patterns of our history or any property, structure, or site which is not otherwise classified as significant or non-contributing.

(C) Significant Properties. A property, structure, or site that is associated with events that have made a significant contribution to the broad patterns of our history. A principal or accessory structure with unique historic and architectural features.

(D) Non-Contributing Properties. A property, structure, or site that does not contribute to the significance of the district. Principal or accessory structures which are characterized as intrusions and do not meet the criteria for listing in the National Register of Historic Places.

(E) Those properties not individually surveyed shall be classified as contributing until such time as they are individually surveyed or their classification is changed. (Ord. 30515-05, passed 12-28-05; amend Ord. 31738-19, passed 5-29-19)

150.345.9 Removal of a Structure

A demolition permit shall not be issued for any property designated or located within an HD-1, HD-2, or HD-3 District, unless the applicant has first obtained an approved Certificate of Appropriateness. The City of Dayton may serve as the applicant for any property determined to be a public nuisance under the R.C.G.O.

(A) The Preservation Officer shall issue a Certificate of Appropriateness if the applicant has submitted an acceptable Mitigation Plan in conformance with sub-section 150.345.10, Mitigation Plan Required, and meets one of the following conditions:

(1) When in the opinion of the Chief Building Official, there is actual and immediate risk of failure or collapse of a building or structure, or a part thereof, and an order is issued for the removal of said structure under Section 153.25 of the R.C.G.O.

(2) The removal of the property has been approved by a Memorandum of Agreement under Section 106 of the National Historic Preservation Act.

(3) The applicant is requesting to remove a non-contributing structure, or non-contributing addition, and the applicant has submitted a Mitigation Plan in conformance with sub-section 150.345.10, Mitigation Plan Required.

(4) The applicant is requesting to remove a contributing accessory structure, and the applicant has submitted a Mitigation Plan in conformance with sub-section 150.345.10, Mitigation Plan Required.

(5) The applicant is requesting to remove a contributing addition that has suffered severe damage, and the applicant has submitted a Mitigation Plan in conformance with sub-section 150.345.10, Mitigation Plan Required.

(B) The Landmark Commission shall approve a Certificate of Appropriateness if the owner/applicant has submitted an acceptable Mitigation Plan in conformance with sub-section 150.345.10 and a performance guarantee in conformance with sub-section 150.345.11 and meets one of the following conditions:

(1) The property is contributing and its removal is necessary to undertake the redevelopment of the district and the Landmark Commission determines the loss of the property will be mitigated through the proposed redevelopment; or,

(2) The property is contributing and Landmark Commission determines its removal is necessary to undertake the rehabilitation of more important architectural and historic elements of the property consistent with the building or Zoning code or other provisions of this Section; or,

(3) The property is significant or contributing and has been determined to be a public nuisance under the R.C.G.O., and the Landmark Commission determines removal of the property is necessary to abate the nuisance; or

(4) The property is significant or contributing and removal of the property has been deemed necessary to rectify a condition of unreasonable economic burden for the owner/applicant as determined by the Landmark Commission based on sub-section (a) or (b) below:

(a) The owner/applicant desires to construct a new building which will be used for a permitted use under current zoning and the cost of rehabilitation of the existing structure to meet all building and zoning requirements for the same permitted use would exceed the cost of clearance and construction of a new building. In addition the owner/applicant must comply with all of the following:

(i) Cost estimates for the renovation of the existing structure must be submitted by the owner/applicant and prepared by at least two qualified professional sources, such as a building contractor, a licensed architect, or a licensed engineer, and deemed reasonable by the Landmark Commission. The average cost estimate is to be used for comparison.

(ii) Cost estimates to demolish the existing structure must be submitted by the owner/applicant and prepared by qualified professional sources.

(iii) Cost estimates for the construction of the new structure shall be submitted by the owner/applicant and be prepared by at least two qualified professional sources, such as a building contractor, a licensed architect, or a licensed engineer, and deemed reasonable by the Landmark Commission. The average cost estimate is to be used for comparison.

(iv) All cost estimates must be prepared so that they are easily compared against each other and where practical on a square foot basis and may include all direct labor and material plus 25% for architectural, engineering, and other expenses.

(v) The owner/applicant must disclose the full nature of any anticipated public subsidy, direct or indirect, in the project including, but not limited to land, buildings, site improvements, loans, grants, tax credits, tax abatement, or tax exemptions.

(vi) The value of any direct or indirect subsidy in the new facility together with any received in the past five years is to be subtracted from the average of the rehabilitation cost estimates.

(b) The owner/applicant desires to demolish the building to alleviate the economic burden of owning and maintaining the structure. In addition the applicant must comply with all of the following:

(i) The owner/applicant shall make a reasonable attempt in the next twenty-four (24) months to sell the property through a licensed real estate broker at or below the appraised value as determined by a real estate appraiser certified as such by the State of Ohio. The appraisal must be based on the current use and current condition of the building, exclusive of land value. The Landmark Commission may, at their discretion, seek an appraisal by a third party to validate the appraisal submitted by the owner/applicant or owner/applicant's agent. If the Commission's appraisal does not corroborate the appraisal obtained by the owner/applicant, a third appraisal shall be obtained, performed by a real estate appraiser agreed to by both the Commission and the property owner/applicant. The value found in this third appraisal shall then be the appraised value of the property.

(ii) The owner/applicant shall obtain a report from a registered professional engineer or architect that outlines the condition of the structure and the estimated costs to renovate the structure to comply with the current building code, considering a permitted land use that the building could reasonably house.

(iii) Cost estimates for the renovation of the existing structure must be submitted by the owner/applicant and prepared by at least two

qualified professional sources, such as a building contractor, a licensed architect, or a licensed engineer, and deemed reasonable by the Landmark Commission. The average cost estimate is to be used for comparison.

(iv) The owner/applicant shall consult with civic groups, public agencies, and interested citizens regarding possible acquisition of the structure or its relocation, including relocation of significant architectural features of the structure.

(c) If the Landmark Commission denies an application for a Certificate of Appropriateness, the Commission shall have the power to impose and enforce a waiting period of up to twelve (12) months, upon a finding that the structure is of such importance that an alternative to demolition should be sought and may be feasible and should be actively pursued by both the owner/applicant and the Landmark Commission. During this waiting period, the owner/applicant of the structure shall maintain and preserve the structure to prevent further deterioration.

In addition, the property owner/applicant shall make a reasonable attempt, during the waiting period, to sell the property through a licensed real estate broker at or below the appraised value as determined by a real estate appraiser certified as such by the State of Ohio.

If the Landmark Commission and the owner/applicant are unable to agree on a means of preserving the structure within the waiting period or its extension, the Landmark Commission shall approve the Certificate of Appropriateness for removal of the structure provided that the owner/applicant submits a Mitigation Plan that complies with sub-section 150.345.10, Mitigation Plan Required. (Ord. 30515-05, passed 12-28-05; amend Ord. 31028-10, passed 10-20-10; amend Ord. 31738-19, passed 5-29-19)

150.345.10 Mitigation Plan Required

The applicant has submitted a Mitigation Plan consistent with the Architectural Design Standards that mitigates any adverse effects of the proposed removal upon the historic property, the streetscape, and the district through:

(A) When the Preservation Officer is given the authority to issue a Certificate of Appropriateness for the removal of a structure as outlined in sub-sections 150.345.7 (B), Minor Modifications, and 150.345.9 (A), the applicant shall submit a Mitigation Plan that complies with one of the following:

(1) For complete demolition of Contributing structures:

(a) Mitigation as outlined in a formal Memorandum of Agreement between the City of Dayton, the State Historic Preservation Office, and any other identified parties of interest.

(2) For complete or partial demolition of Non-Contributing structures:

(a) Complete exterior rehabilitation or restoration of the remaining structure; or,

(b) Landscaping consistent with the architectural and historic integrity of the streetscape.

(3) For complete or partial demolition of a Contributing accessory structure:

(a) Complete exterior rehabilitation or restoration of the remaining structure; or,

(b) The construction of at least two (2) off-street parking spaces meeting the current zoning requirements.

(B) When the Landmark Commission is given the authority to issue a Certificate of Appropriateness for the removal of a structure as outlined in sub-section 150.345.7 (A), Major Modifications, and 150.345.9 (B), the applicant shall submit a Mitigation Plan that complies with one of the following:

(1) For complete demolition of Contributing or Significant commercial structures:

(a) New construction that is similar in bulk and scale as other buildings in the streetscape, compatible with the architectural content of other historic properties in the streetscape, and which contributes to the architectural or historic integrity of the district; or,

(b) Landscaping that is sympathetic to the streetscape and maintains the architectural rhythm of the districts. This may include the construction of knee walls, ornamental fencing, public seating or other amenities.

(2) Partial demolition of Contributing or Significant commercial structures:

(a) Complete exterior rehabilitation or restoration of the remaining structure and landscaping consistent with the architectural and historic integrity of the streetscape; or,

(b) Landscaping the parcel consistent with the Architectural Design Standards and relocating the remaining structure in an appropriate setting or preserving of the salvageable architectural materials.

(3) Complete or partial demolition of Non-Contributing commercial structures:

(a) Complete exterior rehabilitation or restoration of the remaining structure; or,

(b) Landscaping that is sympathetic to the streetscape and maintains the architectural rhythm of the district.

(4) For complete or partial demolition of residential structures:

(a) New construction that is similar in bulk and scale as other buildings in the streetscape, compatible with the architectural content of other historic properties in the streetscape, and which contributes to the architectural or historic integrity of the district; or,

(b) Complete exterior rehabilitation or restoration of the remaining structure and landscaping consistent with the architectural and historic integrity of the streetscape; or,

(c) Landscaping the parcel consistent with the Architectural Design Standards and relocating the remaining structure in an appropriate setting or preserving of the salvageable architectural materials.

(5) For complete or partial demolition of a Significant accessory structure:

(a) Complete exterior rehabilitation or restoration of the remaining structure and landscaping consistent with the architectural and historic integrity of the streetscape; or,

(b) The construction of an accessory structure meeting the minimum requirements as determined by the Landmark Commission and meets the minimum parking requirements of the underlying zoning district.

(C) The Landmark Commission may refuse to review any application that does not include an appropriate Mitigation Plan. (Ord. 30515-05, passed 12-28-05; amend Ord. 31738-19, passed 5-29-19)

150.345.11 Performance Guarantee.

If the property or part of it to be removed is a listed property or a principal structure along a streetscape, the applicant is required to post a performance guarantee with the City of Dayton as obligee sufficient to insure completion of the Mitigation Plan. The Landmark Commission may adopt rules specifying conditions under which the performance guarantee requirement is subject to waiver. If the City of Dayton is the applicant, the posting of a performance guarantee shall not be required. (Ord. 30515-05, passed 12-28-05; amend Ord. 31028-10, passed 10-20-10)

150.345.12 Area and Bulk Regulations.

The lot area and bulk regulations shall be those of the underlying zoning district except as follows:

(A) Building or Structure Height. The height of a new principal building or structure shall not vary more than 10% from the average height of the existing listed and contributing principal buildings and structures on the streetscape.

(B) Side Yard. On lots with less than the required minimum width, the sum of the widths of the two (2) side setbacks shall be no less than 25% of the lot width. For any one side setback, the required setback shall be no less than 10% of the lot width. For lots meeting the required minimum width, the minimum required side setback shall be the same as the underlying zoning district.

(C) Side Setback on Corner Lot. The side setback on the street side of a corner lot shall be within five (5) feet, more or less, of the average existing front setback of the block face on which the side setback is required.

(D) Maximum Lot Coverage. The maximum lot coverage is 3,000 square feet or the maximum lot coverage of the underlying zoning district, whichever is greater.

(E) Accessory Building or Structure Setbacks. There shall be no minimum required setback from the rear lot line for accessory buildings or structures, except as may be required to provide reasonable access thereto. (Ord. 30515-05, passed 12-28-05)

150.345.13 Uses.

The permitted and conditional uses shall be those of the underlying zoning district. (Ord. 30515-05, passed 12-28-05)

150.345.14 Signs.

All signs located in a historic district shall comply with the sign regulations in Section 150.900 as well as the regulations of this Section.

(A) Signs Not Permitted. Internally lit signs shall not be permitted in any historic district.

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

(1) All signs shall be designed and constructed to be in scale with the building and/or site on which they are located.

(2) Freestanding signs are permitted where building and/or projecting signs are determined by the Landmark Commission to be inappropriate or detrimental to the architectural integrity of the structure. Freestanding signs are limited to twenty (20) square feet of total sign area. Only one (1) freestanding sign shall be permitted.

(3) The lighting of all signs shall be consistent with the general architectural standards of a historic district.

(4) Temporary signs are permitted and no Certificate of Appropriateness is required, provided they have a maximum size of 20 inches by 30 inches and only one such sign shall be displayed. Wall murals shall not be considered short-term or temporary signs. (Ord. 30515-05, passed 12-28-05; amend Ord. 31490-16, passed 5-04-16; amend Ord.31738-19, passed 5-29-19)

150.345.15 Off-street Parking and Loading.

(A) For permitted uses within the boundaries of a historic district, off-street parking and loading requirements shall be those set forth in Section 150.700, Off-Street Parking and Loading Regulations.

(B) However, off-street and off-site parking spaces shall be considered major modifications to the property on which they are located, potentially affecting the view of the streetscape and shall be subject to the review of the Landmark Commission. (Ord. 30515-05, passed 12-28-05)

150.345.16 Certificate of Appropriateness.

(A) In addition to other permits required by this Zoning Code, a Certificate of Appropriateness assuring compliance with the Architectural Design Standards in sub-section 150.345.6 is required prior to the beginning of any construction, demolition, exterior redesign, or maintenance of exterior surfaces in any historic district.

(B) The Certificate of Appropriateness placard shall be posted in public view during the time in which the work is being performed.

(C) A Certificate of Appropriateness shall remain valid for a period of twelve (12) months from the date of issuance. If such work is delayed for a period exceeding the initial twelve (12) months, the Certificate of Appropriateness shall automatically expire and any other zoning or building permits issued in conjunction with it shall become void if the Secretary has not granted an extension as provided for in sub-section 150.345.16 (D).

(D) The Secretary may grant, but not exceed, two extensions of the period of validity of a Certificate of Appropriateness, not to exceed six (6) months each. A request for an extension shall set forth reasons for the delay.

(E) An application for a zoning certificate in a historic district shall also be considered an application for a Certificate of Appropriateness and be submitted to the Zoning Administrator. Such applications shall contain enough information (such as scale drawings, material specifications, etc.) to enable the Zoning Administrator and the Preservation Officer to determine compliance with the design standards and land use controls set forth in this Section. If the application does not provide sufficient information for the Zoning Administrator and the Preservation Officer to determine compliance with the design standards and land use controls set forth in this Section, the Preservation Officer may either reject the application or give the applicant a reasonable period of time in which to provide additional information for further consideration. (Ord. 30515-05, passed 12-28-05)

150.345.17 Review by Zoning Administrator.

(A) The Zoning Administrator shall review each application to determine if it is in compliance with all requirements of this Section except the Architectural Design Standards enumerated in sub-section 150.345.6.

(B) If the application is determined to be in compliance, the Zoning Administrator shall immediately refer two (2) copies of the application and all attached materials to the Preservation Officer accompanied by a written statement signed by the Zoning Administrator stating: "This application has been reviewed for compliance with all requirements of the zoning code except for the additional design standards imposed by the historic district regulations and has been found to comply with same." (Ord. 30515-05, passed 12-28-05)

150.345.18 Review by Preservation Officer.

(A) The Preservation Officer shall review the application for conformance with the Architectural Design Standards enumerated in sub-section 150.345.6 and shall approve, modify, or disapprove those items listed as minor modifications and those major modifications specifically assigned to the Preservation Officer.

(B) If review by the Landmark Commission is not required, a Certificate of Appropriateness shall be issued or denied by the Preservation Officer and the applicant shall be notified of such action in writing within seven (7) days from the date of receipt by the Preservation Officer.

(C) If review by the Landmark Commission is required, the Secretary shall schedule the application for review by the Landmark Commission at the earliest possible date once a complete application has been submitted to the Preservation Officer. (Ord. 30515-05, passed 12-28-05)

150.345.19 Appeal of Preservation Officer's Decision.

If the application is denied or approved subject to modifications by the Preservation Officer, the applicant may request review by the Landmark Commission. Such review shall be requested in writing to the Landmark Commission within fourteen (14) days of the decision by the Preservation Officer. (Ord. 30515-05, passed 12-28-05)

150.345.20 Review by Landmark Commission.

(A) The Landmark Commission shall review all applications for major modifications not specifically assigned to the Preservation Officer, and shall review any appeal from a decision of the Preservation Officer.

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

(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.

(2) The hearing shall be held within thirty (30) days of the date of receipt of a completed application by the Preservation Officer or within thirty (30) days of receipt of an appeal.

(C) The Landmark Commission shall notify the applicant, in writing, that it has made one of the following decisions:

(1) The application has been approved;

(2) The application has been denied. However, no application shall be denied unless a majority of the then appointed members of the Landmark Commission agree to deny the application;

(3) The application has been approved, subject to modifications. However, no application shall be modified unless a majority of the then appointed members of the Landmark Commission agree to modify the application; or,

(4) The application has been approved with recommendations by the Landmark Commission, based on their individual and collective expertise, that the applicant may wish to consider as they move forward with their project.

(D) The Secretary shall notify the Zoning Administrator in writing within seven (7) days of the action of the Landmark Commission and issue a Certificate of Appropriateness if the review by the Preservation Officer or the action of the Landmark Commission resulted in approval of the application.

(E) The Landmark Commission shall not be required to hear any application that substantively covers a matter on which it has ruled within the preceding six (6) months. (Ord. 30515-05, passed 12-28-0; amend Ord. 31490-16, passed 5-04-16)

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 the Landmark Commission's written decision is issued 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. (Ord. 30515-05, passed 12-28-0; amend Ord. 31490-16; passed 5-04-16; amend Ord. 31752-19, passed 9-4-19)

150.345.22 Amendment or Rescission of Designation

When property has been designated as an historic district, such designation may thereafter be rescinded or amended by the City Commission. The procedure for amending or rescinding the designation shall be the same as that for designation of a district in the first instance. The City Commission may rescind a designation in whole or in part when it deems it to be in the public interest to do so. (Ord. 30515-05, passed 12-28-05)

150.345.23 Penalties for Non-Compliance

In addition to the penalties imposed by Section 150.130, Fees, Penalties and Enforcement, if any party proceeds to remove a building prior to the issuance of an approved Certificate of Appropriateness, a mitigation fee equal to 75% of the estimated demolition and disposal cost as determined by the Chief Building Official shall be levied for each day after notification of said violation until said party files an acceptable Mitigation Plan and a performance guarantee with the City of Dayton. (Ord. 30515-05, passed 12-28-05)

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Section 150.350
Planned Developments

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150.350.1 Purposes

(A) Purpose. The Planned Development District (PD) is an overlay district with regulations based on the premise that the ultimate quality of a built environment or development proposal is determined not only by the type, character and allocation of land uses, but also by the way in which such land uses are executed. In many cases, the subdivision regulations and standard zoning district regulations and procedures do not adequately regulate the design of buildings or enable the range of uses in a single zoning district that may be appropriate in the City of Dayton.

(1) The purposes of the Planned Development District regulations are to:

(a) Provide an opportunity for a mix of land uses otherwise not permitted within the standard municipal zoning district classifications.

(b) Allow the creation of development standards that respect the unique characteristics, natural quality and beauty of the site and the immediate vicinity and protect the community's natural resources by avoiding development on, and destruction of, sensitive environmental areas.

(c) Enable greater review of design characteristics to ensure that the development project is properly integrated into its surroundings and is compatible with adjacent development.

(d) Assure compatibility between proposed land uses within and around the Planned Development District through appropriate development controls.

(e) Promote economical and efficient use of land and reduce infrastructure costs through unified development.

(f) Provide for supporting community facilities.

(g) Establish objective criteria for review that ensure conformity to community and district standards and allow for consistent treatment throughout.

(h) Create a mechanism to allow for the construction of Planned Developments in phases to accommodate the incremental development of a project.

(2) The Planned Development District is designed to encourage:

(a) Unified development projects that exhibit creative planning and design in ways that cannot be achieved through a standard zoning district or subdivision regulation, yet are consistent with all applicable plans, including but not limited to, the City's Comprehensive Plan, Thoroughfare Plan, and the intent of the Zoning and Subdivision Code.

(b) Imaginative architectural design.

(c) Flexibility in building styles and types.

(d) Proper relationships between buildings, between developments and between structures and the land.

(e) The development of the land in an orderly, coordinated and comprehensive manner consistent with accepted land planning, landscape architecture practices and engineering principles according to approved plans. (amend Ord. 31752-19, passed 9-4-19)

150.350.2 Applications and Procedures

The process for an approval of a Planned Development and Final Plan includes:

(A) A property owner or owners may request to rezone a parcel or parcels to a Planned Development that establishes the vision, conceptual layout, land uses, and development standards for the project. The application for a Planned Development shall be reviewed by Plan Board and approved by City Commission. The application for rezoning to Planned Development shall be processed, noticed, and heard in the manner prescribed in this Zoning Code for Zoning Map amendments in Section 150.125. Any required subdivisions or plats may be considered concurrently with the Planned Development application.

(B) Following the approval of the Planned Development, the applicant shall submit a Final Plan to be reviewed and approved by Plan Board. The Final Plan shall include a detailed plan for development for either all or a portion of the approved Planned Development area. An application for a Final Plan shall be processed, noticed, and heard in the manner prescribed in this Zoning Code for Major Site Design Review in Section 150.115.7, Site Design Plan Review Procedures.

(C) Alternatively, an applicant may request to combine the applications for the Planned Development and Final Plan. The Director of Planning and Community Development may approve or deny this request based on the type of application, completeness of plans,

and timing requirements of the project. All requirements of both 150.350.4, Planned Developments Requirements and 150.350.5, Final Plan Application Requirements, shall be met for a combined plan submittal. If approved by the Director of Planning and Community Development, the applicant shall submit the Planned Development application along with the Final Plan and any additional information that is required such as the project narrative and adjacent developments. The combined application shall follow the process established for Planned Developments. (amend Ord. 31752-19, passed 9-4-19)

150.350.3 Form of Application

An application for a Planned Development or Final Plan shall be filed with the Secretary of the Plan Board. The application shall be in such form and contain such information as shall be prescribed from time to time by the Director of Planning and Community Development, but shall in all instances contain the information required by this Section unless determined by the Director of Planning and Community Development to be inapplicable or unnecessary. In the case of a Planned Development for industrial uses, the application shall contain an engineering study demonstrating that the proposed industrial uses will comply with the applicable performance standards, such as, but not limited to noise; vibration; heat; and glare, imposed by the particular industrial district in which it is proposed to locate the Planned Development. (amend Ord. 31752-19, passed 9-4-19)

150.350.4 Planned Development Application Requirements

The application for a Planned Development shall include the following information. The Director of Planning and Community Development may waive any of the following requirements or may request additional information or details in order to conduct a thorough review of the application.

(A) A survey of the tract or parcel that is to be developed showing its location and size and including all existing features such as streets, alleys, easements, utility lines, existing land use, general topography and physical features, including but not limited to steep slopes, stream beds or other water courses, mature stands of trees, individual tress of substantial age or size, and rock outcroppings.

(B) Documentary evidence that will clearly establish the legal or beneficial nature of the applicant's interest in the tract(s) or parcel(s) proposed to be developed.

(C) Ownership information for all properties to be included in the Planned Development. If the properties have multiple owners, all procedural applications shall be filed jointly by all owners of the properties included in the proposed Planned Development boundaries.

(D) Narrative description of the proposed development that summarizes the project including the availability of utilities and infrastructure to support the Planned Development.

(E) The general arrangement of buildings and uses, the proposed street layout, proposed open space network, and the location of any proposed public gathering spaces or civic uses.

(F) A summary table showing the total acres of the proposed Planned Development and the number of acres devoted to each type of land use.

(G) A preliminary phasing plan depicting the proposed phases, if the project is to be developed in stages, as well as the approximate commencement date for construction and the proposed buildout period.

(H) If common open space is to be provided, information necessary to comply with the regulations in Section 150.350.19, Common Open Space.

(I) Development standards that will apply to the Planned Development including, but not necessarily limited to:

1. Permitted land uses;

2. Project connectivity including street network, pedestrian paths, and non-vehicular transportation accommodations;

3. Parking design for vehicles and bicycles, including general location, access points, and screening;

4. Streetscape elements and street profile plan;

5. Urban design concepts including build-to lines (minimum and maximum setbacks), location of active ground floor uses (if any), allowable parking/service access locations, and other relevant design criteria;

6. Architectural and building form concepts, residential and non-residential building frontage elements, and mechanical equipment screening; and

7. Setbacks from the perimeter of the proposed Planned Development District;

8. Buffering and screening from adjacent land uses;

9. Open space character (if open space is included as part of the project).

(J) Traffic impact study if requested by the City Engineer, Director of Planning and Community Development, or the Plan Board. (amend Ord. 31752-19, passed 9-4-19)

150.350.5 Final Plan Application Requirements

The application for a Final Plan shall include the following information. The Director of Planning and Community Development may waive any of the following requirements or may request additional information or details in order to conduct a thorough review of the application.

(A) Plat(s) prepared by a registered surveyor for the entire development identifying parcel numbers, lines, dimensions, and areas.

(B) The existing topography with contour intervals of not less than five feet, and final contours at two feet maximum.

(C) The proposed dimensions, setbacks, use, and arrangement of buildings, parking areas (with proposed arrangement of stalls and number of cars), entrance and exiting driveways

and their relation to existing and proposed streets, and all other significant features of the proposed development.

(D) Notation of any right-of-way dedication that may be necessary for the widening or extension of any existing rights-of-ways.

(E) Building elevations and perspective views indicating proposed architectural character. Building materials and colors shall be identified and materials boards provided when required by the Director of Planning and Community Development.

(F) Design and location of all existing landscaping to be preserved and all proposed landscaping areas, open spaces, retention and detention areas, and yards including the common and scientific names of all proposed plant species and the quantity and sizes of each.

(G) Existing and proposed storm and sanitary sewers, water mains, culverts, and other underground structures.

(H) A sign plan that establishes overall sign design requirements including maximum sizes, types, locations, and architectural elements or features.

(I) The location of all dumpster enclosures and enclosure details.

(J) A screening plan for all roof-top and ground-mounted mechanical units.

(K) Proposed and existing fences and walls.

(L) A lighting plan indicating fixture types, sizes, and a photometric plan.

(M) A phasing plan for the development, if any. See Section 150.350.6, Planned Development Phasing. (amend Ord. 31752-19, passed 9-4-19)

150.350.6 Planned Development Phasing

An applicant may request to submit the Final Plan applications in phases to allow for the gradual build-out of an approved Planned Development. Each application for a Final Plan shall include the information set forth in Section 150.350.5, Final Plan Application Requirements, and illustrate how it fits into the approved Planned Development. (amend Ord. 31752-19, passed 9-4-19)

150.350.7 Planned Development Review Criteria

The following development and design criteria are established to ensure that all proposed development and redevelopment complies with the purposes of this District as set forth in Section 150.350.1. A proposed development utilizing the Planned Development District shall be reviewed and considered as required in Section 150.350.2, Application and Procedures, according to the criteria established below. If a change in the underlying zoning district for the Planned Development is also being requested, the application shall also be reviewed using the considerations in Section 150.125.7, Amendments. The Planned Development application is intended to be the basis and standard for the eventual and complete development of the site and should ensure appropriate and compatible future development by others.

(A) The proposed plan is consistent with the goals and objectives of the City's Comprehensive Plan;

(B) The proposed plan is consistent with any other plan or policy statement for the orderly development of the City;

(C) The proposed plan is consistent with the goals of this Zoning Code which include creating a built environment that reflects and complements Dayton's existing built form;

(D) The appropriate use and value of property within and adjacent to the area will be safeguarded;

(E) The site design concepts demonstrate that the proposed development will result in a harmonious grouping of buildings within the proposed development and in relationship to existing and proposed uses on adjacent property;

(F) Evidence that the character, massing, form, and materials of the buildings shall be compatible with one another throughout the entire development.

(G) Preservation of significant natural features to the maximum extent feasible, such as, but not limited to, stream beds or other water courses, steep slopes, mature stands of trees, individual trees of substantial age or size, and rock outcroppings; and

(H) Intended measures that will be taken to convey the terms of the design criteria to future purchasers and/or tenants. (amend Ord. 31752-19, passed 9-4-19)

150.350.8 Final Plan Review Criteria

The Plan Board shall review a Final Plan and determine if it is consistent with the overall intent and purposes of the approved Planned Development. The Plan Board will also review the details of the proposed Final Plan to ensure compliance with all applicable City codes and regulations including:

(A) Preliminary utility easements including fire hydrants, sanitary sewers, and preliminary grading, drainage, and storm water management;

(B) Roadway systems, circulation areas, service areas, parking areas, entrance, exits, and pedestrian walkways within the development and access to public streets that minimize traffic hazards or congestion;

(C) The general location of buildings depicting bulk, height, and spatial relationships of proposed building masses with adjacent development;

(D) The number and location of access drives limited to reduce curb-cuts, cut-through traffic, incidence of left turns, and adverse impact upon adjacent uses;

(E) The location of parking areas, including circulation routes designed to service front parcels and main, rear, or additional parking areas and to permit travel between all parking areas;

(F) Internal directional traffic signage required to assure safe and orderly vehicular and pedestrian traffic;

(G) Parking lot lighting, including, style, and height that directs lighting to access drives, pedestrian walkways, parking lots, and buildings and not to adjacent residential areas;

(H) A signage plan indicating consistent use of materials, colors, lettering, etc., in compliance with Section 150.900, Sign Regulations;

(I) Intended measures to screen rooftop mechanical equipment from view from the public right-of-way and adjoining residential properties. Where necessary because of sight lines, such screening may be accomplished through the use of parapet walls, roof mounted screens or other devices approved by the City;

(J) Accommodation and access for emergency and firefighting apparatus;

(K) Screening and enclosure of trash, recycling, and grease containers, as required by sub-section 150.800.10, Screening of Accessory Uses, so as not to be visible from the public right-of-way or adjoining properties;

(L) Location of landscaped or screened buffer areas as required within front, side, and rear setbacks and significant buffers with adequate landscaping and screening between the proposed development and adjacent residential areas. (amend Ord. 31752-19, passed 9-4-19)

150.350.9 Restrictions

Unless specifically addressed in the Planned Development, the application for a Final Plan shall contain a statement describing in detail the substance of covenants, grants of easements, or other restrictions to be imposed upon the use of land, buildings, and structures including proposed easements for public utilities. (amend Ord. 31752-19, passed 9-4-19)

150.350.10 Statement of Modifications

The Planned Development narrative shall contain a statement setting forth a list of the modifications required in the regulations otherwise applicable to the subject property such as, but not limited to an increase to the maximum height regulations and adjustments to setbacks; Supplemental District Regulations; Conditional Use and Specific Use Regulations; parking; and permitted uses. (amend Ord. 31752-19, passed 9-4-19)

150.350.11 Criteria

An application for a Planned Development shall be consistent with the following general criteria in Sections 150.350.12 through 150.350.19 below for the use of land and the use, type, bulk, design, and location of buildings and structures, the density and intensity of use, the common open space, and public facilities. (amend Ord. 31752-19, passed 9-4-19)

150.350.12 Permitted and Conditional Uses.

A Planned Development may include any combination of uses when such use(s) are found to be compatible with one another and in keeping with the following criteria, provided the proposed location of the uses will not adversely affect adjacent property and/or the public health, safety, and general welfare:

(A) The list of permitted and Conditional uses, including accessory uses as applicable;

(B) Listed uses shall be specifically defined, unless they are specifically defined by this Zoning Code;

(C) The Plan Board may limit the location of any listed use because of compatibility or other constraints and considerations. (amend Ord. 31752-19, passed 9-4-19)

150.350.13 Regulations from the Underlying Zoning District and this Zoning Code

The bulk regulations, parking requirements, accessory use/structure regulations and any other applicable regulations of this Zoning Code shall be applicable to the Planned Development, unless modified as permitted by this Section. The Plan Board may, however, modify the applicable regulations and requirements if it is shown by the applicant that the proposed modifications further the Purposes of the Planned Development district, or there will be preservation of distinctive physical characteristics of the site, or that additional amenities or increased efficiency in public services can be provided under the proposed Planned Development by the modification of the otherwise applicable regulations. (amend Ord. 31752-19, passed 9-4-19)

150.350.14 Density

The Planned Development shall comply with the density regulations of the district in which it is located unless an increase in density is approved as part of the Planned Development. (amend Ord. 31752-19, passed 9-4-19)

150.350.15 Accessibility of Site and Traffic Considerations

The site shall be accessible from public roads that are adequate to carry the additional traffic that will be imposed upon them by the proposed Planned Development. To determine compliance with this requirement, the Plan Board, City Engineer, or Director of Planning and Community Development, may require a traffic impact study. Any streets, alleys, and driveways proposed for the site shall be adequate to serve the residents or occupants of the proposed Planned Development, but shall be so designed as to discourage outside through traffic from traversing the development. Traffic controls shall be provided by the city if the needed traffic control devices are in the priority sequence for the year of construction as determined by the Division of Engineering. If such signals are required to prevent traffic hazards or congestion on adjacent streets and the proposed traffic control device is not in the normal priority sequence, the traffic control device shall be provided by the developer without expense to the city.

Automobile entrances to the site shall be minimized and placed in such a way as to maximize safety, maximize efficient traffic circulation, and minimize the impact on the surrounding area. A maximum of two curb cuts shall be allowed per street frontage. However, factors including the number of existing curb cuts in the area, the potential for increased traffic hazards and congestion, and the number of travel lanes of the street that serves the site shall be used to determine the actual number of curb cuts permitted. (amend Ord. 31752-19, passed 9-4-19)

150.350.16 Joint and Cross Access in Non-Residential Zoning Districts

These provisions will result in adequate driveway spacing and reduce the potential for reduced capacity on the City's major roads.

(A) Adjacent commercial properties that generate 100 trips or more per day according to the Institute of Transportation Engineer's *Trip Generation Manual*, shall provide a cross access drive to allow circulation between sites. The Plan Board may modify or waive the

requirements of the Section where the characteristics or layout of abutting properties would make development of a unified or shared access and circulation system impractical.

(B) A system of joint use driveways and cross access easements shall be established along all streets designated as a collector or greater on the City's Official Thoroughfare Plan and the building site shall incorporate one or more of the following:

(1) Service drive connections or cross access corridors preferably visible from the street between sites that have a design speed of 10 mph and sufficient width to accommodate two-way travel aisles designed to accommodate automobiles, service vehicles, and loading vehicles.

(2) Stub-outs and other design features to show that the abutting properties may be tied in to provide cross-access via a service drive or other connection;

(3) A unified access and circulation system plan that includes coordinated or shared parking areas, where feasible.

(C) Applicants for a building permit and/or Final Plan shall:

(1) Record an easement allowing cross access to and from other properties served by the joint use driveways and cross access or service drive; and

(2) Surrender any remaining access rights, such as abandoned curb cuts and pre-existing driveways along the public road, which will be closed and eliminated after the completion of the joint-use driveway; and,

(3) Record a joint maintenance agreement defining maintenance responsibility of adjoining property owners. (amend Ord. 31752-19, passed 9-4-19)

150.350.17 Site Layout

When lots with business or industrial buildings or structures in a Planned Development abut a residence district, or when lots with business buildings or structures abut residential buildings in the same development, appropriate screening and buffer yards shall be provided, as required in Section 150.800, Landscaping & Screening Regulations. Any part of a Planned Development not proposed to be used for buildings, structures, parking and loading areas, or accessways, shall be landscaped and planted. (amend Ord. 31752-19, passed 9-4-19)

150.350.18 Site Design Requirements

Any required design standards, residential contextual standards, or pedestrian oriented design standards for the zoning district in which the tract or parcel is located shall be applicable to the Planned Development. The Plan Board may modify the applicable regulations if it is demonstrated by the applicant that due to unusual circumstances, such as the form of the surrounding built environment or the shape of the parcels that comprise the Planned Development, that compliance would not further the Purposes of this Section or the Purposes of the otherwise applicable zoning district. Site design requirements for a Planned Development shall be established per Section 150.350.4, Planned Development Application Requirements. (amend Ord. 31752-19, passed 9-4-19)

150.350.19 Common Open Space

(A) Open Space for Residential Planned Developments. A minimum of twenty percent (20%) of the total project area shall be devoted to open space, in compliance with the requirements set forth below:

(1) The common open space shall be located and designed to:

(a) Be sufficiently aggregated to create large areas of planned open space;

(b) Conserve significant natural features to the extent practicable;

(c) Be easily accessible to residents of the Planned Development;

(d) Generally, be not less than 100 feet in width at any point except for short segments that provide visual and pedestrian connections between larger open space areas; and,

(e) Be interconnected with open space areas on abutting parcels wherever possible, by open space corridors.

(2) Land area devoted to the following shall not be included as meeting the common open space requirement:

(a) Public streets rights-of-way, private roads, and parking areas;

(b) Required setbacks between buildings, parking areas, and project boundaries and between buildings and public streets unless the required setback is contiguous to and part of a larger area of open space;

(c) Required spacing between buildings and between buildings and parking areas;

(d) Private yards within subdivided lots;

(e) Detention ponds that are not accessible to residents due to site conditions or fencing;

(f) The land area within fifteen (15) feet of all dwelling units.

(3) Areas designated for common open space purposes may be:

(a) Preserved as wetlands, woodlands, lakes, and ponds; historic sites; environmentally sensitive areas; or similar conservation-oriented area; or,

(b) Used for retention ponds for stormwater run-off provided the ponds are aerated and full to a minimally acceptable capacity, as determined by the City Engineer; or,

(c) Used for detention ponds for stormwater run-off provided the detention pond is accessible to residents and can accommodate recreational uses, such as play fields, as determined by the City Engineer; or,

(d) Used for outdoor active or passive recreation including in-ground pools, tennis courts, etc., but shall not include the area for recreation buildings or related parking.

(4) Any common open space intended to be devoted to recreational activities shall be of a usable size and shape for the intended purposes as determined by the Plan Board. Where deemed appropriate by the Plan Board, recreation areas shall be provided with sufficient parking and appropriate access.

(5) Such common open space, including any recreational facilities proposed to be constructed in such space, shall be clearly shown on the Planned Development application and/or the Final Plan, as applicable.

(6) Prohibition of Further Subdivision of Restricted Open Space. Restricted open space shall be prohibited from further subdivision or development by deed restriction, conservation easement, or other agreement in a form acceptable to the City's Law Department and duly recorded in Recorder's Office of Montgomery County.

(B) Unless specifically addressed in the Planned Development application, legal instruments setting forth the ownership and perpetual maintenance of the required common space by the developer, homeowners' association or similar entity or agency shall be submitted to the City's Law Department for review and approval prior to approval of the Planned Development District. The Planned Development shall also include such provisions to ensure that remedial measures will be available to the City if the common open space is permitted to deteriorate or is not maintained in a condition consistent with the best interests of the residents of the Planned Development or of the City.

These provisions shall include that in the event the agency or homeowners' association, hereafter referred to as the agency, established to own and maintain the common open space, or any successor agency, shall at any time after the establishment of the planned development fail to fulfill any obligation imposed on such agency as a condition of approval of the planned development, the City may serve written notice upon such agency or upon the residents and owners of the planned development, setting forth the manner in which the agency has failed to fulfill its obligation. The notice shall include a demand that such deficiencies be cured within the time specified within the notice. If such deficiencies are not cured within the specified time, the City, in order to preserve the taxable values of the properties within the planned development and to prevent the Common Open Space from becoming a public nuisance, may enter upon the common open space and maintain the same and perform the other duties of the agency until such agency shall again resume its obligations. All costs incurred by the City in carrying out the obligations of the agency shall be assessed against the properties within the planned development and shall become a tax lien on the properties.

(C) <u>Ownership of Open Space</u>. Subject to the regulations set forth above, open space may be owned by an association, the City, or a land trust or other conservation organization recognized by the City. Unless specifically addressed in the Planned Development, if it

is proposed that this common open space be owned and/or maintained by any entity other than a governmental authority, copies of the proposed articles of incorporation and by-laws of the entity shall be submitted. (amend Ord. 31752-19, passed 9-4-19)

150.350.20 Conditions and Guarantees

Prior to the granting of any Planned Development, the Plan Board may recommend, and the Commission shall adopt, such conditions and restrictions upon the establishment, location, construction, maintenance, and operation of the Planned Development as the Commission deems necessary for the protection of the public interest and to secure compliance with the Planned Development. (amend Ord. 31752-19, passed 9-4-19)

150.350.21 Amendments to Planned Developments

(A) The Plan Board has jurisdiction to approve minor amendments to an approved Planned Development provided that the amendments remain in harmony with the general purposes and intents of the development. Minor amendments shall include, but are not limited to, the minor shifting of the location of permitted land uses within the development, a reorganization of the street, open space, or pedestrian network, or other amendments that may result in a necessary change in the Planned Development due to the location or availability of infrastructure, or other field conditions.

(B) If the Director of Planning and Community Development determines that the proposed changes constitute a major amendment to an approved Planned Development, such major amendment shall be considered a new Planned Development that shall be processed, noticed, and heard in the manner prescribed in this Zoning Code for Zoning Map amendments in Section 150.125.

(C) The Board of Zoning Appeals shall not grant Variances to Planned Developments or Final Plans. (amend Ord. 31752-19, passed 9-4-19)

150.350.22 Adjustments to a Final Plan

Minor adjustments to a Final Plan, resulting from field conditions, detailed engineering data, topography, or critical design criteria pertaining to drives, curb data, retaining walls, swimming pools, tennis courts, fences, building locations, and building configuration, parking area locations, or other similar project particulars, may be authorized in writing with the concurrence of the Director of Planning and Community Development and the Zoning Administrator. These minor adjustments may be permitted provided they do not increase density, decrease the number of parking spaces, or allow buildings closer to perimeter property lines. Further, such adjustment requests shall be supported by documentation, reviewed by the Director of Planning and Community Development and the Zoning Administrator and determined by them to conform to the original purpose and intent of the Planned Development approval. If both the Director of Planning and Community Development and the Zoning Administrator do not agree or agree that an adjustment is not minor, the proposed changes shall be referred to the Plan Board for approval and shall be processed, noticed, and heard in the manner prescribed in this Zoning Code for Major Site Design Review in Section 150.115.7, Site Design Plan Review Procedures. (amend Ord. 31752-19, passed 9-4-19)

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Section 150.355
Urban Preservation Overlay District

§150.355.1	Purpose	§150.355.7	Neighborhood Compatibility Standards
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§150.355.6	Use, Area, and Bulk Regulations		

150.355.1 Purpose.

(A) The conservation of the unique urban character of many of Dayton's residential and commercial areas recognizes that the preservation and protection of the elements that make these areas attractive is consistent with the goal of residential and business district vitality. These areas provide an alternative to new outlying homogeneous residential and commercial areas. As such, the conservation objective is to retain the overall physical ambience of these areas through appropriately scaled and sited new construction as well as sensitive rehabilitation of those structures that continue to retain functional usefulness. In a word, the overall goal is compatibility with the existing built environment.

(B) The purposes of the Urban Preservation regulations are to assist the development of land and structures to be compatible with, and to protect, the quality of the urban environment in those locations where the characteristics of the environment are of significant public value and where development permitted under conventional zoning and building regulations may negatively affect that value. It is the intent of this Section to promote and protect the health, safety, and general welfare of the public through:

(1) The enhancement of property values, the protection of property rights of all citizens, and the stabilization and revitalization of distinctive areas of the city, as defined in this Section.

(2) The protection, enhancement, perpetuation, and use of structures, sites, and neighborhoods that have an urban character unique in the City.

(3) The recognition of the need to conserve certain unique City areas focusing on how each structure and element of the area blends and fits with all other features of the area.

(C) To this end, these sub-sections authorize the adoption of Urban Preservation Overlay districts that will control certain aspects of physical development, redevelopment, and rehabilitation in the district. (Ord. 30515-05, passed 12-28-05)

150.355.2 Definition.

An Urban Preservation (UP) District is defined, unless otherwise specified in this Section, as an area of eight (8) contiguous block faces where a majority of the principal buildings are of a distinctive style, scale, or period of construction, which together possess an overall physical ambience. Areas smaller than eight (8) contiguous block faces may be designated if they meet two (2) of the characteristics detailed in sub-section 150.355.4 (A) (1), (2), and (3), inclusive. (Ord. 30515-05, passed 12-28-05)

150.355.3 Establishment of the Preservation Review Committee and the Vesting of Responsibilities

(A) There shall be established a Preservation Review Committee. This Committee shall be comprised of the Preservation Officer, the Zoning Administrator, and the Director of the Planning and Community Development Department or his/her designee. This Committee shall have the responsibilities assigned to it in this Section.

(B) Sub-section 150.110.5, Landmarks Commission, establishes the Preservation Officer for the City of Dayton. The Preservation Officer shall also have the responsibilities assigned to him/her in this Section.

(C) Sub-section 150.110, Zoning Administrator, establishes the Zoning Administrator for the City of Dayton. The Zoning Administrator shall also have the responsibilities assigned to him/her in this Section. (Ord. 30515-05, passed 12-28-05)

150.355.4 Urban Preservation District, Designation of District

(A) The City Plan Board may recommend the adoption of an Urban Preservation District for those unique residential and commercial areas containing one or more of the following attributes:

(1) Distinctive building features, such as:

(a) Period of construction.

(b) Style.

(c) Scale.

(d) Mass.

(e) Material.

(2) Distinctive site planning and natural features, such as:

(a) Lot platting.

(b) Street layout and composition.

(c) Setback and yards.

(d) Parks/Open spaces.

(e) Lighting.

(3) Distinctive land uses or land use patterns, such as mixed uses or unique uses, neither of which are generally permitted by the underlying zoning code without modification.

(B) To be designated, a district may be nominated by the City Plan Board, or the Priority Board, or neighborhood or business association of which the proposed district is a part, or by a petition signed by owners representing a majority of parcels in the proposed area. If nominated by petition, the petition shall contain the signatures of at least one property owner for each taxable parcel and at least one authorized signatory for each tax-exempt parcel listed on the County Auditor's records. The petition must also contain at least one signature from an owner of record on each block face in the proposed district. The nomination is to be submitted in a form prescribed by the City Plan Board and filed with the Secretary to the Plan Board. Upon receipt from the Plan Board Secretary, the Department of Planning and Community Development shall determine the validity of the nomination and eligibility of the proposed area. The boundaries of each such district shall be indicated on the official zoning map as an overlay zone superimposed over the existing zones. A copy of the ordinance creating each Urban Preservation District, including the Urban Preservation Plan, shall be on file with the Zoning Administrator and shall serve as the specific regulations for that particular district. (Ord. 30515-05, passed 12-28-05)

150.355.5 Urban Preservation Plan

(A) Upon verification of the Urban Preservation District's nomination and eligibility, the Department of Planning and Community Development shall prepare an Urban Preservation Plan detailing specifically, in words or illustrations, or both:

(1) A map and legal description of the Urban Preservation District.

(2) The special and unique characteristics that are to be protected.

(3) The submission requirements for an application for a Zoning Certificate.

(4) The features and uses of any new development or redevelopment, which shall be reviewed by the Zoning Administrator, his designee or the Preservation Review Committee, for conformity with the standards contained in the Urban Preservation Plan, and enforced accordingly.

(5) The district compatibility standards in conformity with sub-section 150.355.7, Neighborhood Compatibility Standards.

(B) The Urban Preservation Plan shall be considered for adoption in accordance with the procedure for zoning amendments specified in Section 150.125. Upon adoption, the Urban Preservation Plan will serve as the document controlling development, redevelopment, and rehabilitation in the designated Urban Preservation District. (Ord. 30515-05, passed 12-28-05)

150.355.6 Use, Area and Bulk Regulations

The use, lot area, and bulk regulations of a particular UP district shall be those of the underlying zoning district in which a UP district shall be hereafter established, except as the use, area, bulk, and yard regulations shall be expressly modified or revised by the ordinance creating the UP district. In the case of conflict between the provisions of an underlying zoning district and a UP district, the provisions of the UP district shall prevail. (Ord. 30515-05, passed 12-28-05)

150.355.7 Neighborhood Compatibility Standards

Compatibility standards preserve or protect the unique urban character of designated UP districts. These standards and controls are appropriate additions to regulations for urban preservation districts. Such controls shall include, but are not limited to:

(A) Dimensional relationships of structures.

(B) Building materials.

(C) Landscaping.

(D) Vehicular access and circulation.

(E) Building location.

(F) Signage.

(G) Parking.

(H) Screening.

(I) Setbacks and yard requirements.

(J) Facade treatments.

(K) Fencing.

(L) Land use.

(M) Utility and Public Improvements in the Right-of-way.

(N) Lot size

(O) Building Height (Ord. 30515-05, passed 12-28-05)

150.355.8 Amendment to an Urban Preservation Plan

After a UP district has been approved by the Commission, it may be amended or modified only by the use of the same procedures as are applicable for the original adoption of a UP district. However, minor adjustments in the UP plan provisions related to specific development sites within a UP district, resulting from field conditions, detailed engineering data, topography or critical design criteria pertaining to drives, curb data, retaining walls, building locations, building configuration, parking area locations, or other similar project particulars, may be authorized in writing with the concurrence of the Planning Director

and the Chief Building Official. These minor adjustments may be permitted provided they do not increase density, decrease the number of parking spaces, or significantly affect the dimensional and locational relationship among buildings in the UP district. Further, such adjustment requests shall be supported by documentation, reviewed by the Planning Director and Chief Building Official and determined by them to conform to the original purpose and intent of the adopted UP plan. If both the Planning Director and the Chief Building Official do not agree, adjustment shall not be allowed except by amendment. The Plan Board shall be advised of all minor adjustments authorized. (Ord. 30515-05, passed 12-28-05)

150.355.9 Enforcement by the Zoning Administrator.

The Zoning Administrator shall enforce the Neighborhood Compatibility Standards, by issuance of legal notices of violations, and/or in any other manner provided by law. (Ord. 30515-05, passed 12-28-05)

150.355.10 Reserved (Ord. 30515-05, passed 12-28-05)

150.355.11 Procedures for Approval of Modifications to Buildings within a UP District

(A) Zoning Certificate

(1) A Zoning Certificate assuring conformity with these additional urban preservation standards is required prior to the beginning of any construction, demolition, exterior redesign, or maintenance of exterior surfaces in any Urban Preservation District.

(2) An application for a Zoning Certificate shall contain enough information (such as scale drawings, material specifications, etc.) to enable the Zoning Administrator to determine compliance with the standards in the applicable Urban Preservation District.

(B) Review by Zoning Administrator

Review for Completeness. Within seven (7) days after receiving an application, the Zoning Administrator shall review the submitted application for completeness and compliance with the submission requirements for the applicable Urban Preservation Plan. If the application is deemed insufficient, the Zoning Administrator shall notify the applicant of the necessary changes or additional information needed. When the application is deemed complete and the application fee has been paid, the Zoning Administrator shall officially accept the application for consideration of the action(s) requested on the date such determination is made and either review it pursuant to sub-section 150.355.11 (C) below or transmit it to the Preservation Officer.

(C) Review of the Application

(1) Minor Modifications. The Zoning Administrator shall approve, modify, or disapprove those items listed as minor modifications in sub-section 150.355.11 (C) (1)(a) below. The Zoning Administrator shall review the application for conformance with the Neighborhood Compatibility Standards enumerated in the applicable Urban Preservation District. A Zoning Certificate shall be issued or denied by the Zoning Administrator, and the applicant shall be notified of such action in writing within ten (10) from the date of receipt of the application.

(a) Minor Modifications include:

(i) Repainting of existing painted surfaces the same or similar color;

(ii) Replacement of doors, windows, the roof with similar materials, gutters, and downspouts

(iii) Repair of architectural details

(iv) Replacement of architectural features and building materials, such as wood trim; balustrades; and siding, with the same material and in the same style as the original

(v) Minor repair of exterior surfaces, such as caulking, masonry tuck-pointing

(vi) Landscaping, including major re-grading, trees, shrubs, and outdoor lighting

(vii) Construction of accessory structure, provided the structures are 150 square feet or less

(viii) Replacement of fencing, provided the applicable Urban Preservation Plan permits fencing and the type of fencing proposed

(ix) Re-paving existing impervious surfaces

(x) New signage, if the new sign is similar in style and coloring to the previous signage

(xi) Those modifications specifically assigned to the Zoning Administrator for approval by the applicable Urban Preservation Plan or the Preservation Review Committee.

(2) Major Modifications: All other modifications or new construction shall be reviewed and approved by the Preservation Review Committee according to the procedures in sub-section 150.355.11 (D) below.

(3) The Zoning Administrator shall not be required to review any application that substantively covers a matter on which it has ruled within the preceding six (6) months.

(4) If review by the Preservation Review Committee is required, the Preservation Officer shall schedule the application for review by the Preservation Review Committee at the earliest possible date once a complete application has been submitted to the Preservation Officer.

(D) Review by Preservation Review Committee

(1) The Preservation Review Committee shall review all applications for major modifications.

(2) The Preservation Review Committee's review shall be by means of a hearing. The hearing shall be noticed in accordance with the requirements in sub-section 150.115.8, Public Meeting Notice.

(3) The hearing shall be held within thirty (30) days of the date of receipt of a completed application by the Preservation Officer.

(4) The Preservation Review Committee shall render its decision in writing, either approving the application, denying the application, or approving it subject to modifications.

(5) The Preservation Officer shall notify the Zoning Administrator in writing within seven (7) days of the action of the Preservation Review Committee. The Zoning Administrator shall issue a Zoning Certificate within five (5) days of receiving such notification, if the review by the Preservation Review Committee resulted in approval of the application.

(6) Preservation Review Committee shall not be required to review any application that substantively covers a matter on which it has ruled within the preceding six (6) months.

(E) Appeals

Appeals of the Zoning Administrator's or the Preservation Review Committee's decision may be taken to the Landmarks Commission by filing a notice of appeal in the Planning and Community Development Department. Appeals shall be filed within ten (10) days following the date the written decision is issued by the Zoning Administrator or Preservation Review Committee, as applicable. Public notice of the appeals shall be provided in accordance with sub-section 150.115.8, Public Meeting Notice. (Ord. 30515-05, passed 12-28-05; amend Ord. 31752-19, passed 9-4-19)

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Section 150.363
Source Water Protection Districts

§150.363.1 Purposes
§150.363.1.5 R.C.G.O. Chapter 53
§150.363.2 Permitted and Prohibited Uses
§150.363.3 Lot and Setback Requirements
§150.363.4 Height Regulations
§150.363.5 Groundwater Protection Standards in the Well Head Operation District
§150.363.6 Groundwater Protection Standards in the Water Protection Overlay District
§150.363.7 Outdoor Activities
§150.363.8 Variances to Increase Established TMDI in the Source Water Protection Districts

150.363.1 Purposes.

The regulated Source Water Protection Area (SWPA) is comprised of two Source Water Protection Districts: the Well Head Operation (WO) District, and the Water Protection Overlay (**WP**) District. The **WO** and **WP** Overlay Districts are designed to safeguard the public health, safety, and welfare of citizens and institutions that are customers of the City of Dayton's Department of Water by regulating the land use and the storage, handling, use and/or production of Regulated Substances within the Source Water Protection Area. The intent of this designation is to protect the region's potable water supply against contamination.

(A) The Well Head Operation (**WO**) District is mapped on property owned by the City at the location of any presently city-owned and operated or designated future or proposed public water supply well, recharge lagoon, or other related water facility. Accordingly, the Total Maximum Daily Inventory of Regulated Substances (TMDI) shall not be increased in the **WO** District.

(B) The Water Protection Overlay (WP) District is mapped on land within the Source Water Protection Area, adjacent to the existing and proposed municipal water well fields within the City, not included within the **WO** District. (Ord. 30515-05, passed 12-28-05; amend. Ord. 30602-06, passed 10-04-06; amend Ord. 31426-15, passed 7-29-15)

150.363.1.5 R.C.G.O. Chapter 53

Provisions, regulations, and requirements found in R.C.G.O. Chapter 53 shall also apply to all uses and/or zoning lots in the Source Water Protection Area. (amend Ord. 31426-15, passed 7-29-15)

150.363.2 Permitted and Prohibited Uses.

(A) Permitted Uses. See sub-section 150.300.2, Use Regulations.

(B) Schedule 150.363.2 of Permitted Uses in the Well Head Operation District.

Schedule 150.363.2 PERMITTED USES IN WELL HEAD OPERATION DISTRICT	
	WO **Well Head Operation[1]**
(1) Community Facilities/Institutions	**1**
(a) Community center	P[1]
(b) Cultural institution	P[1]
(c) Library	P[1]
(d) Public safety facility	C[1]
(e) Utility substation/ distribution facility, indoor	C[1]
(f) Utility substation/ distribution facility, outdoor	C[1]
(2) Recreation/Open Space	**1**
(a) Arboretum/botanical garden	P[1]
(b) Band shell	P[1]
(c) Boat launch	P[1]
(d) Dog park	P[1]
(e) Golf course	P[1]
(f) Greenhouse/conservatory	P[1]
(g) Park/playground	P[1]
(h) Recreation facility, indoor	P[1]
(i) Recreation facility, outdoor	P[1]
(j) Skate park	P[1]
(k) Theater, outdoor	P[1]
(3) Office/Retail	**1**
(4) Other	**1**
(a) Bee keeping	P[1]
(b) Solar energy structure	P[1]
(c) Telecommunication facility	See Section 150.600
(d) Water supply/treatment facility	P[1]
(5) Accessory Uses	**1**
(a) Outdoor storage, equipment/vehicles	A[1]

Schedule 150.363.2 PERMITTED USES IN WELL HEAD OPERATION DISTRICT	
	WO **Well Head Operation[1]**
(b) Outdoor storage, general materials	A[1]
(c) Solar energy structure	A[1]

Notes to Schedule 150.363.2:

[1] Uses in the WO District also require approval from the Director of the Water Department or his/her designee to insure conformance with the Water Department's standards.

P = Use permitted by right ; C = Conditional use; A = Accessory use;
Blank cell = Use is prohibited

(C) Uses Permitted by Right in the Water Protection Overlay (**WP**) District. Uses permitted by right within the **WP** Overlay District shall be those of the underlying district.

(D) Conditional Uses in the Water Protection Overlay (**WP**) District. The conditional uses within the **WP** Overlay District shall be those of the underlying zoning district.

(E) Prohibited Uses. The following uses are prohibited in the Source Water Protection Districts:

(1) Any use of chlorinated compounds and/or the Per- and Polyfluoroalkyl substances (PFAS) of Perfluorooctanoic Acid (PFOA) and Perfluorooctanesulfonate (PFOS).

(2) Any prohibited uses as identified in state or federal law.

(3) Bulk fuels storage facility.

(4) Class I, II, III, IV, and VI underground injection wells.

(5) Concentrated animal feeding facility.

(6) Dry well.

(7) Grade and fill sites.

(8) Hazardous liquid pipeline facility.

(9) Infectious wastes storing, processing, and/or handling.

(10) Junkyards, including vehicle crushing.

(11) Manufacturing, chemical.

(12) Manufacturing, extraction, mixing or warehousing of Pharmaceuticals and Personal Care Products (PPCP).

(13) Manure storage and/or treatment facility.

(14) Plating.

(15) Recycling collection facility – both Large and Small Collection Facilities.

(16) Recycling processing facility, indoor.

(17) Recycling processing facility, outdoor.

(18) Salt piles unless stored inside a building with an impermeable floor.

(19) Sand, limestone, shale, clay, dirt, and gravel operations.

(20) Self-storage facility, indoor.

(21) Solid waste composting facilities, Class I, II, and III.

(22) Underground storage tank.

(23) Vehicle fueling station.

(24) Waste facility, construction and demolition.

(25) Waste facility, hazardous.

(26) Waste facility, sanitary.

(F) Temporary Uses in the Source Water Protection Districts. No temporary uses shall be permitted in the Source Water Protection Districts that would result in the sum of the Regulated Substances being handled by all of the uses on the zoning lot to exceed the zoning lot's Total Maximum Daily Inventory, and/or to be of a type and quantity of Regulated Substances of such hazard that the Facility Hazard Potential Rating assigned to the zoning lot is exceeded.

(G) Requirement for All Uses in the Source Water Protection Districts. All vehicle maintenance, servicing, and/or cleaning shall be conducted indoors on an impervious surface that drains to working floor drains that are connected to the sanitary sewer system. (Ord. 30515-05, passed 12-28-05; amend. Ord. 30602-06, passed 10-04-06; amend Ord. 31426-15, passed 7-29-15; amend Ord. 31574-17, passed 7-05-17; amend Ord. 31738-19, passed 5-29-19)

150.363.3 Lot and Setback Requirements

(A) Lot Requirements. The minimum lot requirements for permitted, conditional, and accessory uses in the Source Water Protection Districts are specified in Schedule

150.363.3 for the district in which the lot is located except as otherwise regulated in Section 150.500 for conditional uses.

(B) Setback Requirements. Every permitted use of land and all buildings and structures shall be located on a lot in a manner that maintains the required front, side, and rear setbacks set forth in Schedule 150.363.3, measured from the appropriate lot line, except as otherwise regulated in Section 150.500 for conditional uses. The area within each setback shall remain unobstructed by structures except as otherwise permitted in this Code.

(C) Schedule 150.363.3. Development Standards in the Source Water Protection Districts (Ord. 30515-05, passed 12-28-05; amend Ord. 31426-15, passed 7-29-15)

Schedule 150.363.3
Development Standards in the Source Water Protection Districts

	WO	**WP**
	Well Head Operation	**Water Protection Overlay**
(1) Lot Requirements	**1**	
(a) Minimum lot width	0	Shall be the same as underlying zoning district
(b) Minimum lot depth	0	Shall be the same as underlying zoning district
(c) Maximum lot coverage	60%	Shall be the same as underlying zoning district
(2) Minimum Setback	**1**	
(a) Front setback	10 feet	Shall be the same as underlying zoning district
(b) Side setback (unless specified below)	0	Shall be the same as underlying zoning district
(i) Adjacent to a Residential District	20 feet	
(c) Rear setback (unless specified below)	0	Shall be the same as underlying zoning district
(i) Adjacent to a Residential District	20 feet	

Notes to Schedule 150.363.3:
[1] Municipal Water Department activities shall have no maximum lot coverage and no minimum setback requirements.

150.363.4 Height Regulations.

(A) In the **WO** District, the maximum permitted height shall be forty (40) feet, except that Municipal Water Department structures and buildings shall have no maximum height.

(B) In the **WP** Overlay District, the maximum height shall be the maximum height permitted in the underlying zoning district. (Ord. 30515-05, passed 12-28-05; amend Ord. 31426-15, passed 7-29-15)

150.363.5 Groundwater Protection Standards in the Well Head Operation District

In the **WO** District, all uses of land, structures, and buildings shall comply with the standards set forth below:

(A) Use and storage of Regulated Substances in conjunction with municipal water department activities shall not be restricted by this Section.

(B) Unless a greater TMDI has been established for the zoning lot or as provided in sub-section 150.363.5(A), the use of Regulated Substances in conjunction with permitted and conditional uses in this district shall be limited so that the aggregate of Regulated Substances handled shall not exceed one hundred and sixty (160) pounds at any one time.

(C) A limited exclusion from the provisions of 150.363.5(B) is authorized for Regulated Substances that are excluded from reporting in R.C.G.O. Section 53.22 or exempted by the Environmental Advisory Board (EAB) pursuant to R.C.G.O. Section 53.23.

(D) The Zoning Administrator shall determine the TMDI and Facility Hazard Potential Rating of each zoning lot within this district in accordance with R.C.G.O. Section 53.21.

No zoning lot shall handle an amount of Regulated Substances in excess of its Total Daily Maximum Inventory and/or a type and quantity of Regulated Substances of such hazard that its Facility Hazard Potential Rating is exceeded.

(E) The Zoning Administrator, as permitted under sub-section 150.110.2(B) Powers and Duties of the Zoning Administrator, shall not permit substitution of a non-conforming use that results in an increase in the Total Maximum Daily Inventory and/or in an increase in the Facility Hazard Potential Rating assigned to the zoning lot. The Zoning Administrator shall not permit the substitution of a prohibited use as enumerated in Section 150.363.2(E) or a use explicitly prohibited in the definition of Manufacturing, heavy.

(F) All uses within this district shall be connected to the public wastewater disposal system. (Ord. 30515-05, passed 12-28-05; amend. Ord. 30602-06, passed 10-04-06; amend Ord. 31426-15, passed 7-29-15)

150.363.6 Groundwater Protection Standards in the Water Protection Overlay District

In the **WP** Overlay District, all uses of land, structures, and buildings shall comply with the standards set forth below:

(A) Use of Regulated Substances in conjunction with permitted and conditional uses in this district shall be limited so that the aggregate of Regulated Substances handled shall not exceed the TMDI established for the zoning lot or one hundred and sixty (160) pounds, whichever is applicable, at any one time.

(B) A limited exclusion from the provisions of 150.363.6(A) is authorized for Regulated Substances that are excluded from reporting in R.C.G.O. Section 53.22 or exempted by the Environmental Advisory Board (EAB) pursuant to R.C.G.O. Section 53.23.

(C) The Zoning Administrator shall determine the TMDI and FHPR of each zoning lot within this district in accordance with R.C.G.O. Section 53.21.

No zoning lot shall handle an amount of Regulated Substances in excess of the zoning lot's Total Maximum Daily Inventory and/or a type and quantity of Regulated Substances of such hazard that its Facility Hazard Potential Rating is exceeded.

(D) The Zoning Administrator, as permitted under sub-section 150.110.2(B) Powers and Duties of the Zoning Administrator, shall not permit substitution of a non-conforming use that results in an increase in the Total Maximum Daily Inventory and/or an increase in the Facility Hazard Potential Rating assigned to the zoning lot unless a variance is granted as provided for in Section 150.120 Appeals and Variances. The Zoning Administrator shall not permit substitution of a prohibited use as enumerated in Section 150.363.2(E) or a use explicitly prohibited in the definition of Manufacturing, heavy.

(E) A limited exclusion from the provisions of sub-section 150.363.6(A) is authorized for on-site storage of a maximum one-year supply of Regulated Substances which are agricultural chemicals to be used for routine on-site agricultural operations, provided such substances are stored in standard approved packaging and such substances are applied to cropland under Best Management Practices as indicated by soil tests, the OSU Cooperative Extension Service, the Soil and Water Conservation District and label directions approved by the United States Environmental Protection Agency and the Ohio Department of Agriculture. This limited exclusion also applies to the application of agricultural chemicals to cropland where such chemicals are brought in from locations outside the **WP** Overlay District. The on-site storage of Regulated Substances which are agricultural chemicals to be used for routine on-site agricultural operations as described above in excess of a one-year supply constitutes the use to be a storage facility. This provision does not exempt such agricultural chemicals either stored on-site or brought in from other locations from the inventory reporting, spill reporting and underground storage tank protection requirements of the **WP** Overlay District. (Ord. 30515-05, passed 12-28-05; amend. Ord. 30602-06, passed 10-04-06; amend Ord. 31426-15, passed 7-29-15)

150.363.7 Outdoor Activities

Outdoor activities in the **WP** Overlay District shall be governed by the regulations contained in the underlying zoning district. Outdoor activities in the **WO** District shall be permitted only when associated with a principal use and in compliance with the regulations set forth below:

(A) Outdoor Storage. Areas devoted to outdoor storage shall be designed to store materials in compliance with all City Fire Codes and shall be accessible to fire fighting equipment at all times.

(B) Setback. All areas devoted to outdoor storage of goods and materials shall be setback fifteen (15) feet from all lot lines.

(C) Fences and Walls. Fences and walls may be erected in the **WO** District. Chain link or barbed wire fences may be permitted, when the Plan Board concurs with the Director of Water that chain link or barbed wire fences are necessary to protect and provide adequate security for the City's water system. (Ord. 30515-05, passed 12-28-05; amend Ord. 31426-15, passed 7-29-15)

150.363.8 Variances to Increase Established TMDI in the Source Water Protection Districts.

(A) Variances to increase established TMDI shall be regulated pursuant to Section 150.120.

(B) A reduction in TMDI shall not require a variance.

(C) Due to the greatest potential for contamination of the region's potable water supply, variances to increase established TMDI within the Well Head Operation (WO) District and/or the Miami Well Field shall be prohibited.

(D) Variances to increase TMDI or FHPR in connection with a prohibited use as enumerated in Section 150.363.2(E) or a use explicitly prohibited in the definition of Manufacturing, heavy shall be prohibited. (amend Ord. 31426-15, passed 7-29-15)

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Section 150.365
Park/Open Space District

§150.365.1 Purposes
§150.365.2 Permitted Uses
§150.365.3 Lot and Setback Requirements
§150.365.4 Height Regulations
§150.365.5 Parking Setbacks in the Park/Open Space District
§150.365.6 Landscaping & Screening Requirements in the Park/Open Space District
§150.365.7 Outdoor Display and Storage Regulations in the Park/Open Space District
§150.365.8 Accessory Use Regulations in the Park/Open Space District
§150.365.9 Performance Standards in the Park/Open Space District
§150.365.10 Site Design Plan Review

150.365.1 Purposes.

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

(A) To provide for orderly growth and development in the City of Dayton.

(B) To preserve, protect and enhance lands set aside for public open space and public parks.

(C) To provide certainty to property owners, developers and neighbors about the limits of what is allowed in the Park/Open Space District.

(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. (Ord. 30515-05, passed 12-28-05; amend Ord. 31490-16, passed 5-04-16)

150.365.2 Permitted Uses.

(A) Permitted Uses. See sub-section 150.300.2, Use Regulations.

(B) Schedule 150.365.2 of Permitted Uses. (Ord. 30515-05, passed 12-28-05; amend Ord. 30762-08, passed 7-16-08; amend Ord. 30893-09, passed 7-15-09; amend Ord. 31028-10, passed 10-20-10; amend Ord. 31283-13, passed 12-18-13; amend Ord. 31490-16, passed 5-04-16; amend Ord. 31574-17, passed 7-05-17)

Schedule 150.365.2
PERMITTED USES IN THE PARK/OPEN SPACE DISTRICT

	OS Park/Open Space
(1) Community Facilities/Institutions	
(a) Cemetery	**P***
(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
(2) Recreation/Open Space	
(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[1]
(g) Boat launch	P
(h) Campground	C
(i) Community garden	**P***
(j) Dog park	C
(k) Golf course	P
(l) Greenhouse/conservatory	P
(m) Harvesting	**P***
(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

Schedule 150.365.2
PERMITTED USES IN THE PARK/OPEN SPACE DISTRICT

	OS Park/Open Space
(w) Theater, outdoor	P
(x) Trails for hiking/biking/running	P
(y) Water park	PD
(z) Zoo	PD
(3) Other	
(a) Multi-family dwelling	P[2]
(b) Single-family dwelling, detached	P[2]
(c) Solar energy structure	C
(d) Solar panel, building	**P***
(e) Telecommunication facility	See Section 150.600
(f) Two-family dwelling	P[2]
(g) Utility box	**P***
(h) Wall mural	**P***
(i) Windmill, micro	**P***
(4) Accessory Uses	
(a) Composting, incidental	A[3]
(b) Office, administrative/ professional	A
(c) Outdoor display/sales	A
(d) Outdoor Storage of Goods & General Materials	C
(e) Outdoor Storage of Vehicles & Equipment	C
(f) Off Street Parking and Loading areas	A
(g) Restaurant, indoor dining	A
(h) Restaurant, outdoor dining	A
(i) Restrooms	A
(j) Retail establishment	A
(k) Signs	A
(l) Solar energy structure	A[4]

Schedule 150.365.2 PERMITTED USES IN THE PARK/OPEN SPACE DISTRICT	
	OS **Park/Open Space**

Notes to Schedule 150.365.2:
[1] As further regulated by Section 150.420.1, Bee keeping.
[2] Shall be permitted by right in a residentially constructed building existing prior to August 1, 2006.
[3] As further regulated by Section 150.420.1.5, Composting, incidental.
[4] As further regulated by Section 150.565, Solar energy structure.

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

150.365.3 Lot and Setback Requirements

(A) Lot Requirements. The minimum lot requirements for permitted, conditional, and accessory uses in the Park/Open Space District are specified in Schedule 150.365.3 except as otherwise regulated in Section 150.500 for conditional uses.

(B) Setback Requirements. Every permitted use of land and all buildings and structures shall be located on a lot in a manner that maintains the required front, side, and rear setbacks set forth in Schedule 150.365.3, measured from the appropriate lot line, except as otherwise regulated in Section 150.500 for conditional uses. The area within each setback shall remain unobstructed by structures except as otherwise permitted in this Code.

(C) Schedule 150.365.3. Development Standards in the Park/Open Space District (Ord. 30515-05, passed 12-28-05)

Schedule 150.365.3 Development Standards in the Park/Open Space District	
	OS **Park/Open Space**
(1) Lot Requirements	
(a) Minimum lot width	None
(b) Minimum lot depth	None
(c) Maximum lot coverage by buildings	10%
(2) Minimum Setback Depth	
(a) Front Setback	20 feet
(b) Side Setback	Equal to the height of the building; Minimum of 20 feet
(c) Rear Setback	Equal to the height of the building; Minimum 20 feet

150.365.4 Height Regulations.

In the OS District, there is no maximum building height. (Ord. 30515-05, passed 12-28-05)

150.365.5 Parking Setbacks in the Park/Open Space District

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

(A) Setback from Rights-of-Way. The minimum setback from a street right-of-way shall be twenty (20) feet.

(B) Setback from Residential Districts. The minimum setback from a lot lines that abut a residential zoning district boundary shall be twenty (20) feet.

(C) Setback from All Other Lot Lines. The minimum setback from all other lot lines shall be ten (10) feet. (Ord. 30515-05, passed 12-28-05)

150.365.6 Landscaping and Screening Requirements in the Park/Open Space District

Visual screening and landscape buffers shall be provided for all lots in the Park/Open Space District in accordance with the provisions set forth in Section 150.800, Landscaping and Screening Regulations. (Ord. 30515-05, passed 12-28-05)

150.365.7 Outdoor Display and Outdoor Storage Regulations in the Park/Open Space District

(A) The outdoor display of materials shall comply with the following:

(1) Outdoor display of materials shall be limited to products that are customarily associated with the operation of the principal business located on the premises and conducted by employees of such principal business. There shall be no outdoor display of merchandise for sale by any person operating or conducting a business that is different or distinct from the principal business conducted at that location except for temporary displays pursuant to Section 150.430, Temporary Uses.

(2) The area of the lot devoted to outdoor display shall not exceed 15 percent of the ground floor area of the building(s) on the lot. 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 when the ground floor area is 5000 square feet or less.

(3) The outdoor display area shall comply with the building setback requirements set forth in Schedule 150.365.3 for the district in which the lot is located.

(4) The outdoor display area shall not be located in areas intended for traffic and pedestrian circulation or parking as identified on the site design plan;

(5) Any proposed outdoor display areas shall be approved as part of a Site Design Plan Review in accordance with Section 150.115, Site Design Review Procedures.

(B) The outdoor storage of goods and materials shall be a conditional use associated with a permitted use and shall comply with the following:

(1) Outdoor storage of materials shall include the storage of goods, materials, or products associated with the principal use. The storage of radioactive, toxic or otherwise hazardous materials shall not be permitted.

(2) All outdoor storage of goods and materials shall be enclosed with a solid wall or fence, including solid gates. The wall or fence shall have a height tall enough to conceal all materials therein from the view of any observer standing at the grade level of an abutting residential district line. However, in no case shall the height of the fence or wall be less than six feet. The solid wall or fence and the associated gates shall be maintained in good condition.

(3) All materials shall be stored in such a fashion as to be accessible to fire-fighting equipment at all times.

(4) Areas devoted to outdoor storage shall be located in a rear yard so that it is behind the principal building and not visible from any public street, unless the storage is located on a corner lot. The enclosed area shall be setback fifteen (15) feet from any property boundary that abuts a single-family residential district and in no case shall the side and rear setback of the enclosed area be less than ten (10) feet.

(5) Any proposed outdoor storage areas shall be approved as part of a Site Design Plan Review in accordance with Section 150.115, Site Design Review Procedures.

(C) The outdoor storage of vehicles and equipment shall be a conditional use associated with a permitted use and shall comply with the following:

(1) All stored vehicles or equipment shall be necessary to and customarily associated with the principal use.

(2) All vehicles or equipment shall be in a lawfully operable state. In no case shall inoperable vehicles be stored.

(3) All outdoor storage of vehicles and equipment shall be enclosed with a solid wall or fence, including solid gates. The wall or fence shall have a height tall enough to conceal all materials therein from the view of any observer standing at the grade level of an abutting residential district line. However, in no case shall the height of the fence or wall be less than six feet. The solid wall or fence and the associated gates shall be maintained in good condition. No barb or razor wire shall be permitted.

(4) All materials shall be stored in such a fashion as to be accessible to fire-fighting equipment at all times.

(5) Areas devoted to outdoor storage of vehicles and equipment shall be located in a rear yard so that it is behind the principal building and not visible from any public street, unless the outdoor storage is located on a corner lot. The enclosed area shall be setback fifteen (15) feet from any property boundary that abuts a single-family

residential district and in no case shall the side and rear setback of the enclosed area be less than ten (10) feet.

(6) Any proposed outdoor storage of vehicles or storage shall be approved as part of a Site Design Plan Review in accordance with Section 150.115, Site Design Review Procedures. (Ord. 30515-05, passed 12-28-05; amend Ord. 30643-07, passed 3-21-07; amend Ord. 31142-11, passed 12-21-11)

150.365.8 Accessory Use Regulations in the Park/Open Space District

Accessory uses permitted in the Park/Open Space District shall conform to the regulations in this Section as well as any other applicable Sections.

(A) Accessory Buildings. Accessory buildings that have a gross floor area of 200 square feet shall comply with the applicable parking setbacks set forth in sub-section 150.365.5, Parking Setbacks in the Parking/Open Space District. All other buildings shall be considered principal buildings and shall conform to all lot and setback regulations and to development plan review and approval requirements. The height of an accessory building shall not exceed twenty (20) feet.

(B) Fences and Walls. Fences and walls may be erected in the Park/Open Space District in compliance with the requirements set forth below.

(1) Location.

(a) Fences may be built up to, but not on, the property line, and shall be located entirely on the property of the person constructing it, except property owners, with written permission from abutting property owners, may connect to fences on adjoining properties.

(b) In order to maintain clear vision lanes for vehicles and pedestrians, no opaque fences shall be permitted within ten (10) feet, in any direction, of the following points:

i. At the intersection of a driveway and sidewalk (or front property line if there is no sidewalk);

ii. At the intersection of a driveway and public right-of way;

iii. At the intersection of any two driveways.

(c) All fences shall comply with Section 150.410, Visibility at Intersections.

(2) Materials and Construction.

(a) Approved fencing materials include stone, brick, finished wood, iron, or synthetic look-alike products.

(b) No fence shall be electrified or topped with barbed wire.

(c) Only ornamental fences shall be permitted in front of a building, unless required for screening pursuant to Section 150.800, Landscaping & Screening Regulations or outdoor dining pursuant to Section 150.565, Restaurant, Outdoor

Dining. In no case shall chain link fences be permitted in any front yard or when visible from any private right-of-way, public circulation area, or public right-of-way, unless surrounding an athletic field or court, backstop, bull pen, or similar use and/or structure.

(d) All fences shall be designed, constructed, and finished so that the supporting members face the property of the owner of the fence.

(e) All fences on a single parcel shall have a unified style along a single plane and for all fence segments visible from off the premises from any single direction.

(3) Height. No fence shall exceed eight (8) feet in height in any rear or side yard, or exceed forty-two (42) inches in height when located in front of a building, unless otherwise required by this Zoning Code.

(4) Screening and Landscaping.

(a) Screening and landscaping is not required for ornamental fences.

(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 sub-section 150.800.6, Landscaping Requirements Along Street Frontages. is planted within five (5) feet of the fence and between the fence and the property line.

ii. Fences that are not located within the required setback areas shall be screened with the following landscape materials, planted not more than five (5) feet from the fence and between the fence and the property line:

(I) One shade tree shall be provided for every thirty (30) linear feet of fence length or fraction thereof, not including gates or other fence openings. Each tree at the time of installation shall have a minimum caliper of 2.5 includes and a clear trunk height of at least six (6) feet;

(II) One shrub, that is twenty-four (24) inches in height at planting, shall be provided for every five (5) feet fence length or fraction thereof, not including gates or other fence openings; and,

(III) The landscaping may be flexible in its arrangement by appropriately aggregating the required plant materials.

(5) All fences shall be maintained in good condition, be structurally sound and attractively finished at all times.

(6) Any proposed fence shall be approved as part of a Site Design Plan Review in accordance with Section 150.115.

(C) Parking. All parking lots shall comply with the buffering and screening requirements in Section 150.800, the landscaping regulations in Section 150.800, and the parking requirements in Section 150.700, Off-Street Parking and Loading Regulations.

(D) Signs. Signs shall conform to the regulations in Section 150.900, Sign Regulations. (Ord. 30515-05, passed 12-28-05; amend Ord. 31738-19, passed 05-29-19)

150.365.9 Performance Standards in the Park/Open Space District

All uses shall comply with the following performance standards:

(A) Trash Receptacles. All solid waste products, including empty packing boxes, that result from any permitted principal, conditional, or accessory use shall either be disposed of, stored in buildings, or completely enclosed in containers. Such building, container, or dumpster shall be located in a side or rear yard and shall comply with the applicable parking setback set forth in Section 150.365.5 and shall be screened in accordance with the provisions set forth in Section 150.800, Landscaping and Screening Regulations.

(B) Lighting. The placement, orientation, distribution patterns and fixture types of outdoor lighting shall comply with the regulations set forth in sub-section 150.420.3, Exterior Lighting Standards. At the close of business, all illuminated signs and lights not necessary for security purposes shall be extinguished.

(C) Overhead Utility Lines. All utility lines, electric, telephone, cable, TV lines, etc., shall be placed underground.

(D) Noise and Emission. No land use or structure shall be used or occupied in any manner to create dangerous or objectionable noise or emissions. All uses shall comply with the regulations regarding noise and emissions in sub-section 150.420.2, Performance Standards and in sub-section 150.420.4, Maximum Permissible Noise Levels. (Ord. 30515-05, passed 12-28-05)

150.365.10 Site Design Plan Review

All uses in the Park/Open Space District shall be permitted only after site design plans have been reviewed and approved according to the procedures set forth in Section 150.115, Site Design Review Procedures. (amend Ord. 31142-11, passed 12-21-11)

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Section 150.400
Supplemental District Regulations

§150.400	Number of Buildings, Structures & Uses on a Zoning Lot	§150.420.5	Definitions Applicable to Schedules 150.420.4(D)(1) and 150.420.4 (D)(2)
§150.405	Restrictions on Allocations & Dispositions of Required Yards	§150.420.6	Nuisance Regulations Not Prohibited
§150.410	Visibility at Intersections	§150.420.7	Method of Measurement
§150.415	Similar Uses	§150.420.8	Exemptions
§150.420	Design Criteria and Performance Standards	§150.425	Grade and Fill
		§150.430	Temporary Uses
§150.420.1	Bee Keeping	§150.430.1	Authorization
§150.420.1.5	Composting		
§150.420.2	Performance Standards	§150.430.2	Permitted Temporary Uses
§150.420.3	Exterior Lighting Standards	§150.435	Garage Setbacks from Alleys
§150.420.4	Maximum Permissible Noise Levels	§150.440	Home Occupations
		§150.445	Vacation of Rights-of-Way

150.400 Number of Buildings, Structures & Uses on a Zoning Lot

(A) Non-residential Districts. In any Downtown, Commercial, Mixed-Use, Transitional, Campus-Institutional, Multi-family or Industrial Districts, any number of buildings, structures and uses may be constructed or established on a single zoning lot. No single zoning lot shall be smaller than the minimum lot area prescribed for the district in which it is located.

(B) Setback Requirements for Open Land. If a zoning lot is, or will be, occupied by a permitted use without buildings or structures, then the minimum required setbacks that would otherwise be required for such zoning lot shall be provided and maintained unless some other provision of this Zoning Code requires or permits a different minimum front, side, or rear setback. Front, side, and rear setbacks shall not be required on zoning lots used for garden purposes. (Ord. 30515-05, passed 12-28-05)

150.405 Restrictions on Allocations & Dispositions of Required Yards

(A) Continued Conformity. The maintenance of required setbacks, other open space, minimum lot area, and off- street parking or loading space legally required for a building or structure shall be a continuing obligation of the owner of such building or structure or of the property on which it is located, as long as the building or structure is in existence. Furthermore, no required setbacks, other open space, or minimum lot area required by this Zoning Code and allocated to any building shall, by virtue of change in ownership or for any other reason be used to satisfy setback requirements, other open space, or minimum lot area requirements for any other building or structure except as specifically provided herein.

(B) Location of Required Open Space. All required setbacks, other open space, and the entire minimum lot area provided in connection with any building, structure or use in order to comply with this Zoning Code shall be located on the same zoning lot as such building, structure or use, unless as may be permitted in a Planned Development.

(C) Required Yards, Existing Buildings. No part of the lot area or of a required setback, other open space, or off-street parking or loading space provided in connection with any building, structure, or use shall be subsequently reduced below, or further reduced if already less than, the minimum requirements of this Zoning Code for equivalent new construction. The restrictions of this sub-section include, but are not limited to, any structure or use existing on the effective date of this Zoning Code or of any amendment thereof.

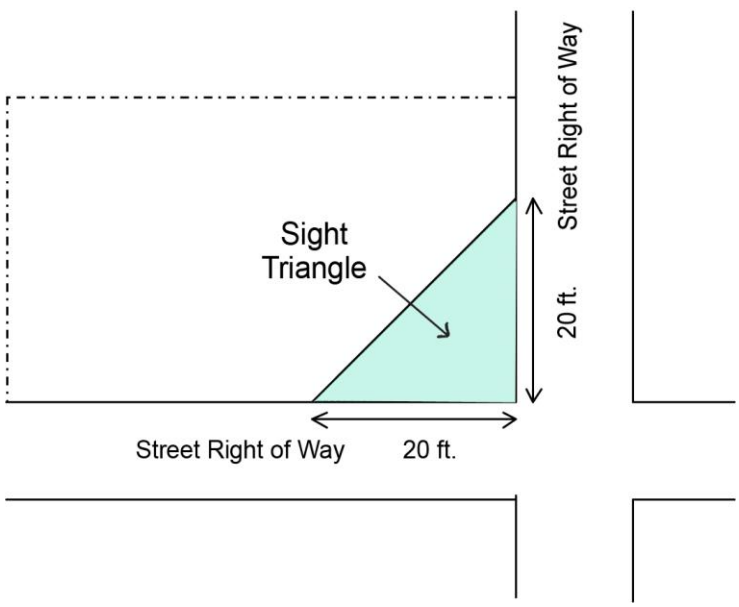
(D) Division of Zoning Lots. No improved zoning lot shall hereafter be divided into two (2) zoning lots or more unless all improved zoning lots resulting from each division shall conform with all the applicable bulk regulations of the zoning district in which the property is located. (Ord. 30515-05, passed 12-28-05)

150.410 Visibility at Intersections

(A) Sight Triangles at the Intersection of Two Streets. In any District, except the MNC, MGC, and the Downtown Districts, on any corner lot, no fence, structure or planting shall be erected or maintained between three (3) feet and eight (8) feet, above the rights-of-way lines, within a clear sight triangle formed by the right-of-way lines of two intersecting streets, and a line drawn between two points, each measuring twenty (20) feet from the intersection of the right-of-way lines. See Illustration 150.410(A) below.

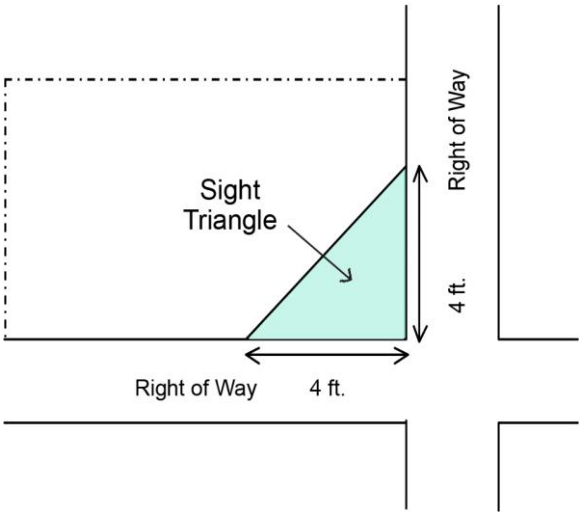
Illustration 150.410 (A)

Visibility at Intersection of Public Streets



(B) Sight triangles at the Intersection of Alleys. In any District, except the MNC, MGC, and the Downtown Districts, on any corner lot, no fence, structure or planting shall be erected or maintained between three (3) feet and eight (8) feet, above the rights-of-way lines, within a clear sight triangle formed by the right-of-way lines of two intersecting alleys, and a line drawn between two points, each measuring four (4) feet from the intersection of the right-of-way lines. See Illustration 150.410(B) below. (Ord. 30515-05, passed 12-28-05; amend Ord. 31283-13, passed 12-18-13)

Illustration 150.410 (B)
Visibility at Intersection of Two Alleys



150.415 Similar Uses

(A) Purpose: Within each zoning district established by this Zoning Code and amendments thereto, uses of land or structures, which are compatible with each other, are permitted in the districts. To the extent that new types of uses are created and are not addressed by this Zoning Code, this sub-section provides the criteria by which the Zoning Administrator may make a determination that a new use is similar to a use permitted, either by right or conditionally, in a district.

(B) Determination. A proposed use may be permitted, by right or conditionally, as a similar use when the Zoning Administrator determines that such proposed use is in compliance with the following provisions:

(1) The proposed use, as well as any comparable use utilized to evaluate the proposed use, is not prohibited in any other district;

(2) The proposed use conforms to and is consistent with the purpose statement of the proposed district more appropriately than in any other district;

(3) The proposed use is of the same general character as the uses permitted by right or conditionally in the district to which it is proposed or is similar to a specific use permitted in that district. (Ord. 30515-05, passed 12-28-05; amend Ord. 31738-19, passed 5-29-19)

150.420 Design Criteria and Performance Standards

Design criteria and performance standards are established to guide the decision making of the Plan Board and the Board of Zoning Appeals when evaluating the appropriateness of proposed development in the City. Specifically, these provisions are intended to achieve, among others, the following purposes:

(A) Establish site plan criteria to:

(1) Ensure that development reflects and is sensitive to the history, climate, topography, vegetation, natural features and building traditions of the City of Dayton.

(2) Ensure that new development and redevelopment are integrated into the surrounding environment in an orderly manner and are compatible and harmonious with the existing overall character of the City.

(3) Provide interest along the streetscape and a pedestrian friendly environment.

(4) Foster and encourage creative application of design principles.

(5) Promote efficient pedestrian and vehicular circulation and access.

(B) Establish performance standards, including a process for review and compliance, to ensure an environment free from elements that may jeopardize the health or welfare of the general public, or degrade the quality of life in the City of Dayton.

(C) Establish exterior lighting standards to:

(1) Control the installation of exterior lighting fixtures to prevent light pollution in the forms of light trespass and glare.

(2) Provide safe roadways and pleasing community vistas free from distracting and debilitating glare. (Ord. 30515-05, passed 12-28-05)

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 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.

(4) Water Supply. An adequate supply of fresh water shall be maintained in a location on the lot which is readily available to all bee colonies on the zoning lot throughout the day to prevent bees from congregating at other sources of water on nearby properties.

(5) Registration. All beekeepers are shall maintain their hives as set forth in the Ohio Revised Code Chapter 909: Apiaries. This includes obtaining annual registration certificates as noted in Ohio Revised Code 909.02.

Every hive shall include the owner's Apiary Identification number on no less than the base and one box. The identification number shall be on a side that is visible without moving or lifting of the hive. Any hive found to be without the identification number or expired Apiary Certificate shall be removed within thirty days.

(6) Maintenance. Colonies shall be maintained in movable frame hives with adequate space maintained in the hives to prevent overcrowding and swarming.

(7) Prohibitions. No Africanized bees may be kept in the City of Dayton.

(B) In Non-Residential Districts. In zoning districts other than residential districts, all regulations applicable in Residential Districts shall apply except that the number of beehives shall be limited to one (1) for each 1,000 square feet of lot area when not adjacent to a residential lot or zoning district. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09; amend Ord. 31028-10, passed 10-20-10; amend Ord. 31490-16, passed 5-04-16)

150.420.1.5 Composting, Incidental

(A) Compost materials shall be contained in a structure constructed of brick or cement block; wood and/or wire mesh; or bins or drums made of plastic or metal.

(B) Compost structures shall be located in rear yards only.

(C) Compost structures shall be set back at least five feet from all property lines.

(D) Maximum height for a compost structure shall be five feet.

(E) The composting structure shall not exceed 300 square feet.

(F) Prohibited materials. Compost materials shall not include woody yard waste [(limbs or branches one (1) inch diameter or greater)], logs, Christmas trees, meat, bones, fat, oil,

whole eggs, dairy products, weeds heavily laden with seeds, plastics, lumber, synthetic fibers, human or animal wastes and/or excreta, carcasses, diseased plants, or similar materials.

(G) Standard composting practices are required, including providing adequate air circulation and moisture to prevent combustion and objectionable odors to adjacent properties. Composting that results in objectionable odors and/or includes prohibited material is considered to be a public nuisance.

(H) Solid waste composting facilities as defined in this Zoning Code shall not be considered Composting, incidental. (Amend Ord. 31028-10, passed 10-20-10; amend Ord. 31574-17, passed 7-05-17; amend Ord. 31738-19, passed 5-29-19)

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:

(A) Americans with Disabilities Act. All uses shall comply with all applicable requirements of the Americans with Disabilities Act, and all other applicable federal, state, and county regulations, as required by the Chief Building Official.

(B) Lighting and Glare. All exterior lighting and conditions that generate glare shall comply with the requirements of sub-section 150.420.3**.**

(C) Heat. No use shall generate heat that is perceptible without the aid of instruments at any point beyond the lot occupied by the use.

(D) Noise. See sub-section 150.420.4, Maximum Permissible Noise Levels, below.

(E) Vibration. Vibrations, which are perceptible without the aid of instruments, shall not be permitted beyond the lot occupied by the use generating such vibration.

(F) Smoke. No use shall emit smoke for longer than eight (8) minutes in any hour which is of a shade darker than Number 3 on the Standard Ringelmann Chart as issued by the U.S. Bureau of Mines.

(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 animals to collect or remain on the premises whereby noxious odors or offensive smells are generated and discernable on any adjoining lot or property. No use shall allow any structure that shelters or houses animals to collect or generate noxious odors or offensive smells that are discernable on any adjoining lot or property.

(H) Air Pollution. No use shall emit fly ash, dust, vapors or other substances that are harmful to health, animals, vegetation or other property or which can cause excessive soiling.

(I) Fire Hazards. Flammable or explosive materials shall only be permitted in structures having incombustible exterior walls.

(J) Storage Handling. Storage handling and use of flammable liquids shall comply with regulations as set forth in Bulletin No. 30-L of the National Fire Protective Association. Storage of other materials in yards or structures shall comply with other fire protective codes of the City of Dayton and all parts shall be accessible to firefighting equipment.

(K) Solid Waste. Solid waste, including empty packing crates and other excess materials, shall not be allowed to accumulate on a lot and shall be disposed of on a regular basis or enclosed within a wall or fence.

(L) Liquid Waste If liquid wastes are disposed of in containers, they shall be appropriate containers, and the wastes shall be removed from the site on a regular basis. Liquid waste or sewerage shall not be discharged into a reservoir, stream, or other open body of water or into a storm or sanitary sewer except as allowed by other codes of the City of Dayton, County, State or similar jurisdictional authority.

(M) Noxious, toxic or corrosive fumes. Noxious, toxic or corrosive fumes or gasses shall not be emitted which shall be injurious to the property, vegetation or health of the people residing in any adjacent residential district.

(N) Radioactive, Electrical or Electro-magnetic Disturbances. Radioactive emissions, electrical discharges, and electro-magnetic disturbances shall be confined to the use and lot from which they originate and shall not occur across any lot line. (Ord. 30515-05, passed 12-28-05; amend Ord. 31490-16, passed 5-04-16; amend Ord. 31574-17, passed 7-05-17)

150.420.3 Exterior Lighting Standards

The purpose of this sub-section is to control the installation of exterior lighting fixtures to prevent light pollution in the forms of light trespass and glare and to preserve, protect and enhance the character of the City and the lawful nighttime use and enjoyment of property located within the City. Appropriate site lighting, including lights for signs and buildings shall be arranged so as to provide safety, utility and security; control light trespass and glare on adjacent properties and public roadways.

(A) Definitions. Terms related to the required exterior lighting standards contained in this sub-section shall have the following meanings:

(1) Footcandle. A unit of illumination produced on a surface, all points of which are one foot from a uniform point source of one candle.

(a) Footcandle – Horizontal. The measurement of footcandles utilizing a direct reading, portable light meter mounted in the horizontal position.

(b) Footcandle – Vertical. The measurement of footcandles utilizing a direct reading, portable light meter mounted in the vertical position.

(2) Full-shielded or full cut-off type fixture. An outdoor lighting fixture that is shielded or constructed so that all light emitted is projected below a horizontal plane running through the lowest light-emitting part of the fixture.

Illustration: Full cut-off lighting

University of Texas, Austin

Full cut-off lighting directs light down and to the sides as needed.

(3) Glare. Direct light that causes annoyance, discomfort or loss in visual performance and visibility.

(4) Illuminance. The quantity of light arriving at a surface divided by the area of that surface. Measured in footcandles.

(5) Light Pollution. Any measurable exterior artificial illumination that strays beyond a property line both horizontally at grade and vertically to the building height limitation.

(6) Light Trespass. Light in sufficient quantity that crosses over property boundaries, impacts surfaces, and produces a negative response in persons owning or using the violated space.

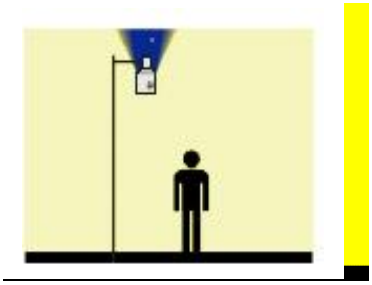
(7) Luminaire. A complete lighting unit consisting of a light source and all necessary mechanical, electrical and decorative parts.

(8) Recessed ceiling fixture. An outdoor lighting fixture recessed into a canopy ceiling so that the bottom of the fixture is flush with the ceiling.

(9) Light Uniformity Ratios. The uniformity ratio is expressed as either the maximum or average illuminance divided by the minimum illuminance. For example, if the average to minimum ratio is 3:1 and an average illuminance of 6 footcandles is desired, the minimum illuminance at any one point must be 2 footcandles.

(10) Uplighting. Any light source that distributes illumination above a 90-degree horizontal plane.

Uplighting



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- Uplighting wastes energy into the sky.
- Causes glare, light trespass and harsh illumination.

(B) Exterior Lighting Plan. A lighting plan is required for all uses that are required to file a site design plan pursuant to sub-section 150.115.2, Developments and Uses Requiring a Site Design Plan, except for parking and loading areas containing fewer than 25 spaces. The lighting plan shall be approved according to the procedures set forth in Section 150.115, Site Design Review Procedures. All existing uses on which exterior lighting is installed or changed shall conform to these standards. The lighting plan shall demonstrate compliance with the exterior lighting standards of this sub-section, and shall include the following items:

(1) A site plan showing location of all exterior light fixtures, controllers and transformers.

(2) Property boundaries, building location(s), parking lot layout, pedestrian paths, adjacent rights-of-way, north arrow and scale.

(3) Specifications and drawings or photographs for all exterior light fixture types, poles, conduit and appurtenant construction.

(4) Lamp wattage of all proposed luminaires.

(5) Information that indicates a minimum light level of .5 footcandles at grade in all vehicular use areas and connecting pedestrian paths.

(6) Cut sheets for all proposed exterior light fixtures and poles.

(7) Any other information and data reasonably necessary to evaluate the required lighting plan.

(C) General Requirements.

(1) All outdoor lighting fixtures regulated according to this sub-section, including but not limited to those used for parking areas, buildings, building overhangs, canopies, signs, billboards, displays and landscaping, shall be full cut-off type fixtures.

(a) Full-cutoff fixtures shall be installed and maintained so that the shielding is effective as described in sub-section 150.420.03 (A)(2) above.

(b) Automobile-oriented uses such as vehicle fueling stations, service stations and drive-through facilities shall install recessed ceiling fixtures in any canopy.

(c) Signs that are wholly illuminated from within and freestanding signs that are externally illuminated with an exposed incandescent lamp not exceeding 25 watts do not require shielding.

(2) Light trespass over a property line shall be limited to no more than 0.5 footcandles at the property line. All on-site lighting of buildings, lawns, parking areas and signs shall be designed so as not to shine onto any adjacent residential property or building, or to cause glare onto any public street or vehicle thereon.

(3) Measurement.

(a) Light levels shall be measured in footcandles with a direct reading, portable light meter. Readings shall be taken only after the cell has been exposed long enough to take a constant reading.

(b) Measurements shall be taken at the residential property line, along a horizontal plane at a height of three and one-half (3.5) feet above the ground.

(4) When a non-residential use abuts a residential zoning district, all non-essential outdoor lighting fixtures, including parking, sign, display and aesthetic lighting, shall be turned off after business hours. Only that lighting needed for safety or security may remain lit after close of business, in which case the lighting shall be reduced to the minimum level necessary. Lighting fixtures in those portions of the property that do not abut a residential zoning district do not have to be extinguished.

(5) The total height of exterior lighting poles shall not exceed the following height regulations. Height shall be measured from the average grade surrounding each light pole:

Schedule 150.420.3
Maximum Height of Light Poles

District	Maximum Height
All Residential Districts and Campus-Institutional District	20 feet
Downtown, Commercial, Mixed Use, and Transitional Districts	25 feet
Industrial Districts	28 feet

(D) Exemptions.

(1) Decorative outdoor lighting fixtures with bulbs of less than 25 watts, installed seasonally, are exempt from the requirements of this sub- section.

(2) Temporary construction or emergency lighting is exempt from the requirements of this sub-section. Such lighting shall be discontinued immediately upon completion of the construction work or abatement of the emergency necessitating such lighting.

(3) All outdoor lighting fixtures existing and legally installed prior August 1, 2006, shall be exempt from the requirements of this Section. When existing lighting fixtures become inoperative, their replacements are subject to the provisions of this Section.

(4) Nothing in this sub-section shall apply to lighting required by the FAA or any other federal regulatory authority. (Ord. 30515-05, passed 12-28-05; amend Ord. 31142-11, passed 12-21-11; amend Ord. 31283-13, passed 12-18-13)

150.420.4 Maximum Permissible Noise Levels

(A) No person shall cause or permit noise to intrude into the property of another person that exceeds the levels listed in:

(1) Schedule 150.420.4(D)(1), between the hours of 7:00 am. and 10:00 p.m.

(2) Schedule 150.420.4(D)(2), between the hours of 10:00 p.m. and 7:00 a.m.

(B) Between the hours of 7:00 am. and 10:00 p.m., the noise in Schedule 150.420.4 (D)(1) may be exceeded by no more than:

(1) 5 dBA for a total of 15 minutes in any 1-hour period,

(2) 10 dBA for a total of 5 minutes in any 1-hour period, or

(3) 15 dBA for a total of 30 seconds in any 1-hour period.

(C) Between the hours of 10:00 p.m. and 7:00 a.m., the noise limits in Schedule 150.420.4(D)(2) may be exceeded by no more than:

(1) 5 dBA for a total of 10 minutes in any 1-hour period or

(2) 10 dBA for a total of 3 minutes in any 1-hour period.

(D) Impulsive sound (such as sounds with a duration of less than 1 second, such as from punch presses) shall not exceed the levels of Schedule 150.420.4(D)(1) (daytime) or Schedule 150.420.4(D)(2) (nighttime) by more than 5 dBA, as measured with the sound level meter on the slow response setting. (Ord. 30515-05, passed 12-28-05)

(1) Daytime Noise Limits.

Schedule 150.420.4 (D)(1) Daytime Noise Limits			
Noise Source	**Receiving Property**		
	Residential	**Business**	**Industrial**
Business	60 dBA	60 dBA	65 dBA
Industrial	60 dBA	65 dBA	70 dBA
Residential	60 dBA	60 dBA	65 dBA

(2) Nighttime Noise Limits

Schedule 150.420.4 (D)(2) Nighttime Noise Limits			
Noise Source	**Receiving Property**		
	Residential	**Business**	**Industrial**
Business	50 dBA	60 dBA	65 dBA
Industrial	50 dBA	65 dBA	70 dBA
Residential	60 dBA	60 dBA	65 dBA

150.420.5 Definitions Applicable to Schedules 150.420.4(D)(1) and 150.420.4(D)(2)

(A) Residential. Shall include all residential zoning districts comprising SR-1, SR-2, ER-3, ER-4, MR-5, SMF, EMF, MMF, MH and CI Districts.

(B) Business. Shall include all business zoning districts comprising CBD, UBD, MNC, ENC, SNC, MGC, EGC, SGC, MX, and TC Districts.

(C) Industrial. Shall include all industrial zoning districts comprising I-1, I-2, BP and-AP. (Ord. 30515-05, passed 12-28-05)

150.420.6 Nuisance Regulations Not Prohibited

Nothing in these regulations shall preclude the City from determining that a particular condition creates a public nuisance and from taking all legally permissible actions to abate the nuisance. (Ord. 30515-05, passed 12-28-05)

150.420.7 Method of Measurement

For the purposes of enforcing the provisions of these regulations, noise shall be measured in dBA using a sound level meter, with the measurements taken at the noisiest point within the receiving property.

(A) A dBA is the sound pressure in decibels measured using the "A" weighting network on the sound level meter. The sound pressure level, in decibels, of a sound is 20 times the logarithm to the base of 10 of the ratio of the pressure of the sound to a reference pressure of 20 micropascals.

(B) A sound level meter is a device that measures sound pressure levels and conforms to Type l or Type 2 as specified in the American National Standards Institute Specification S1.4-1971.

(C) The receiving property is real property within which the maximum permissible noise levels specified herein shall not be exceeded from sources outside such property. (Ord. 30515-05, passed 12-28-05)

150.420.8 Exemptions

(A) The following shall be exempt from the provisions of sub-section 150.420.4 (D)(1), Daytime Noise Limits, between the hours of 7:00 a.m. and 10:00 p.m. only:

(1) Sounds created by the discharge of firearms on authorized shooting ranges.

(2) Sounds created by blasting.

(3) Sounds created by the installation of utility services.

(4) Sounds originating from temporary construction sites as a result of construction activity.

(5) Sounds created by firearms in the course of hunting.

(B) The following shall be exempt from the provisions of sub-sections 150.420.4 (D)(1), Daytime Noise Limits, and 150.420.4 (D)(2), Nighttime Noise Limits, at all times:

(1) Sounds created by motor vehicles operated on public roads and highways, except music and other sounds from radios, boom boxes, or other such devices.

(2) Sounds originating from aircraft in flight and sounds that originate at airports which are directly related to flight operations

(3) Sounds created by surface carriers engaged in interstate commerce by railroad.

(4) Sounds created by warning devices not operating continuously for more than five minutes, or bells, chimes, and carillons.

(5) Sounds created by safety and protective devices where noise suppression would defeat the intent of the device or is not economically feasible.

(6) Sounds created by emergency equipment and work necessary in the interests of law enforcement or for health, safety, or welfare of the community.

(7) Sounds created by the repair of essential utility services.

(8) Sounds originating from officially sanctioned parades and other public events.

(9) Sounds emitted from venting at industrial process facilities during startup only, provided that the startup operation is performed during daytime hours whenever possible. (Ord. 30515-05, passed 12-28-05)

150.425 Grade and Fill

(A) A Zoning Certificate shall be required for grade and fill operations as specified in this Chapter. Grade and fill operations consisting of the clearing and grubbing material and the filling of land to a consistent grade shall be allowed in all districts, except in districts in which clearing and grubbing or filling of land is prohibited, or otherwise regulated. Clearing and grubbing shall be performed in accordance with Item 201.03 of the applicable City of Dayton's Construction and Material Specifications, as may be from time to time promulgated by the City Engineer. Only approved fill material consisting of materials composed exclusively of clean soil, sand, gravel, or other clean aggregates shall be used to bring the land to within four to six inches of finished grade. Only top soil shall be used to bring the land to finished grade. The top soil shall consist of loose, friable, loamy topsoil without admixture of subsoil or refuse. The final grade of fill shall prevent water from draining unnecessarily into adjacent properties.

(B) Soil erosion controls shall be instituted in accordance with the standards set forth in Item 207 of the City of Dayton Construction and Material Specifications. Ground cover shall be provided to the final grade and unless otherwise specified and approved by the Zoning Administrator, all areas shall be seeded in accordance with Item 659 of the City of Dayton Construction and Material Specifications.

(C) Grade and fill operations shall also comply with Section 54.05 of the R.C.G.O. In addition, no person shall engage in an earth-disturbing activity of one (1) acre of more without a storm water management plan approved by the Director of Water and/or the Ohio Environmental Protection Agency.

(D) To obtain a Zoning Certificate for a grade and fill operation, the following must be submitted and approved by the Zoning Administrator:

(1) An existing site plan with topographic detail, planimetric information with structures, trees, drainage channels and other characteristics where applicable;

(2) The proposed extent and depth of excavation and fill;

(3) Time expected to complete the excavation and fill;

(4) Slope angle of excavation and fill walls;

(5) Use and disposition of the spoil and/or overburden materials from the excavations, including a landscaping and vegetation plan to stabilize any disturbed material;

(6) Surface drainage plan;

(7) A post-excavation and fill land use plan. (Ord. 30515-05, passed 12-28-05)

150.430 Temporary Uses (Ord. 30515-05, passed 12-28-05)

150.430.1 Authorization

Temporary uses are permitted in each zoning district subject to the applicable regulations of the district in which the use is permitted. A zoning or occupancy certificate shall be obtained pursuant to sub-sections 150.135.1, Zoning Certificate or 150.135.7, Issuance of Occupancy Certificate. (Ord. 30515-05, passed 12-28-05)

150.430.2 Permitted Temporary Uses

The following temporary uses are permitted, subject to the limitations indicated:

(A) Christmas tree sales for a period not to exceed 60 days. Christmas tree sales shall not be permitted in single-family residential districts. Display of Christmas trees need not comply with the setback requirements of this Zoning Code. However, no tree shall be displayed within 30 feet of the intersection of the curb line of any two (2) streets.

(B) Garage, porch, and/or yard sales or similar activities for a period not to exceed three (3) consecutive days, three (3) times in a calendar year.

(C) Contractor's office, trailer, and equipment shed (containing no sleeping or cooking accommodations) accessory to a construction project, to continue only during the duration of

the project, provided portable toilet facilities are located behind the front building line or the required front setback, whichever is applicable.

(D) Real estate offices (containing no sleeping or cooking accommodations unless located in a model dwelling unit) incidental to a new housing development, to continue only until the sale or lease of all dwelling units.

(E) Seasonal garden center retail outlets located in any **EGC** or **SGC** District for a period not to exceed sixty (60) consecutive days in any 180 day period, subject to the following conditions:

(1) Retail sales only, limited to plants in containers and prepackaged garden supplies. No storage or sale of bulk products is permitted.

(2) No portion of the display shall be on or over publicly owned property.

(3) No required off-street parking space or loading area shall be utilized for display, storage or dispensing.

(F) Seasonal sale of products grown on the premises to continue for not more than eight (8) months per year is only permitted on lots of one-half acre or larger. Structures incidental to such sale need not comply with the applicable front yard requirements if the structures are removed or moved back of the required front yard at the end of the season during which they are used.

(G) An open-air carnival or tent circus, but only in a **EGC, SGC, MGC** or **I-1** and **I-2** Districts, and then only for a period that shall not exceed fourteen (14) consecutive days in any three (3) month period.

(H) Festivals in any zoning district for a period of only three (3) days. Such use need not comply with the front yard requirements. However, structures or equipment that might block the view of operators of motor vehicles on the public streets shall not be located within thirty (30) feet of the intersection of the curb line of any two (2) streets.

(I) Promotional activities of retail merchants, located in any business district, involving the display of goods and merchandise may be conducted outside of enclosed buildings for a period of not more than fourteen (14) days in any three (3) month period. Alternatively, a retail merchant may have one (1) promotional activity for a period of fifty-six (56) consecutive days in any calendar year. Goods and merchandise that will be used in the promotional activity and are also for sale within the building may be displayed in the area immediately adjacent to the building subject to the following conditions:

(1) No portion of the display shall be on or over publicly owned property.

(2) No required off-street parking space or loading area shall be utilized for such display, storage, or dispensing.

(3) No food or drink shall be dispensed outside the building except in accordance with standards and prior written approval of the Montgomery County Combined General Health District.

(J) Tents in any district for permitted uses of that district provided such use is not conducted within a tent for a period of not more than 14 consecutive days in any 90 day period, or in Residential Districts for not more than seven (7) days in any 184 day period.

(K) Itinerant Vendors. Itinerant Vendors shall comply with the regulations set forth below:

(1) Itinerant vendors shall operate solely within the Central Business, Urban Business, Mature Neighborhood Commercial, and Mature General Commercial zoning districts.

(2) All itinerant vendors shall obtain and carry, at all times, written permission from the assessed property owner of the parcel on which the business is transacted.

(3) No itinerant vendor shall block, obstruct, impede, or otherwise interfere with the normal flow of vehicular or pedestrian traffic upon a public street, alley, sidewalk or other public area within the City.

(4) No itinerant vendor shall block or impede the ingress or egress of the public into any business.

(5) Itinerant vendors shall not obstruct required off-street parking.

(6) No itinerant vendor shall unreasonably disturb the peace and quiet of the City and shall not shout, cry out, blow any horn, ring any bell, utilize any amplification system, or use any device to attract the attention of the public.

(7) Any non-permanent structure shall be removed if regular business hours are not maintained for a period greater than seven (7) consecutive days.

(8) All itinerant vendors shall provide at least one (1) garbage receptacle upon the site of business for customer use. The site of business shall be cleared of all debris, trash, and litter at the conclusion of each day's business activities.

(9) Itinerant vendors shall obtain all other required permits, such as permits required from the county health department, or any other permits required by the City of Dayton. All permits shall be conspicuously displayed so as to be readily visible to the general public.

(10) No itinerant vendor shall operate for more than 184 consecutive days without written consent from the Zoning Administrator.

(L) Temporary Uses in the Source Water Protection Districts are further regulated by sub-section 150.363.2 (F), Temporary Uses in the Source Water Protection Districts. (Ord. 30515-05, passed 12-28-05; amend Ord. 30762-08, passed 7-16-08; amend Ord. 31028-10, passed 10-20-10; amend Ord. 31426-15, passed 7-29-15)

150.435 Garage and Surface Parking Space Setbacks from Alleys

When a garage or surface parking space has vehicular access from an alley, the garage or surface parking space shall be setback, from either the side or rear lot line whichever is applicable, twenty-four (24) feet from the edge of the right-of-way on the opposite side of the alley (Ord. 30515-05, passed 12-28-05; amend Ord. 31028-10, passed 10-20-10)

150.440 Home Occupation Regulations

(A) Purpose: The purpose of this sub-section is to set forth regulations, which control the establishment and operation of home occupations. The intent of these regulations is to control the nonresidential use of a residential dwelling unit so that the nonresidential use is limited to an accessory use, and shall not in any way adversely affect the uses permitted in the residential area of which they are a part. Compliance with these regulations should result in all home occupations being located and conducted in such a manner that their existence is not detectable in any manner from the outside of the dwelling unit.

(B) In the Residential and Campus Institutional Districts, in addition to all the standards applicable to the zoning district in which it is located, no home occupation shall be permitted unless it complies with the following restrictions:

(1) Only those land uses that have little or no impact on the surrounding residential area shall be permitted. The Zoning Administrator shall determine if a home occupation meets the intent of the Purpose Statement above. An operator of a home occupation shall provide to the Zoning Administrator any information needed to make such a determination.

(2) No wholesale, jobbing, or retail business shall be permitted unless it is conducted entirely by mail or telephone and does not involve the receipt, delivery, sale or storage of merchandise on or from the premises.

(3) In no way shall the exterior appearance of the residential structure be altered or the occupation within the residence be conducted in such a manner that changes the essential character of the dwelling.

(4) Not more than 25% of the floor area of a dwelling unit, and no more than 25% of any one floor shall be devoted to the home occupation.

(5) No mechanical or electrical equipment shall be used except normal domestic household equipment, typewriters, computers, copying machines, and other similar items.

(6) There shall be no outdoor storage of equipment or materials used in the home occupation, nor shall any accessory building be used for any home occupation activity. Indoor storage of business related material shall not exceed 200 cubic feet.

(7) No home occupation shall be operated in such a manner as to create offensive noise, vibration, smoke, or other particular matter, heat, humidity, glare, electronic interference, or otherwise constitute a nuisance or safety hazard to any occupant of adjacent or nearby properties.

(8) No sign shall be permitted other than those permitted by the applicable regulations in Section 150.900, Sign Regulations.

(9) The home occupation shall be conducted by appointment only.

(10) No home occupation shall require the daily services of a commercial freight carrier, nor shall the use produce traffic in greater frequency than normally found in the adjacent residential area. This sub-section shall not prohibit those delivery services normally and customarily associated with residential uses.

(C) In the Downtown, Commercial, Transitional, and Mixed-Use Hub Districts, in addition to all the standards applicable to the zoning district in which it is located, no home occupation shall be permitted unless it complies with the following restrictions:

(1) If applicable, only those land uses that have little or no impact on the surrounding residential area shall be permitted. An operator of a home occupation shall provide to the Zoning Administrator any information needed to make such a determination.

(2) If applicable, in no way shall the exterior appearance of the residential structure be altered or the occupation within the residence be conducted in such a manner that changes the essential character of the dwelling.

(3) Not more than 25% of the floor area of a dwelling unit, and no more than 25% of any one floor shall be devoted to the home occupation.

(4) No home occupation shall be operated in such a manner as to create offensive noise, vibration, smoke, or other particular matter, heat, humidity, glare, electronic interference, or otherwise constitute a nuisance or safety hazard to any occupant of adjacent or nearby properties.

(5) No sign shall be permitted other than those permitted by the applicable regulations in Section 150.900, Sign Regulations. (Ord. 30515-05, passed 12-28-05; amend Ord. 30762-08, passed 7-16-08; amend Ord. 31028-10, passed 10-20-10)

150.445 Vacation of Rights-of-Way

When the City of Dayton receives requests to vacate rights-of-way, those requests will be reviewed pursuant to the procedures and standards in Sections 95.80 - 95.84 of the R.C.G.O. In addition, the Plan Board will consider the request based on the following:

(A) **Analysis.** The following elements shall be considered whenever an application for vacation is reviewed by the Plan Board:

(1) Urban Design. Is the proposed vacation advisable given the potential urban design impacts on the surrounding area?

(2) Community Support. Is there specific support for the vacation by a neighborhood plan or is there some other form of demonstrated local need?

(3) Function. Is the existing street and/or alley grid, in the surrounding area, intact or already broken? How well does the existing street or alley system perform in the surrounding area? What are the potential impacts to the long-term flexibility of the transportation network? Will approval of the vacation create, reduce, or eliminate a dead-end alley or street?

(4) Consequence. What might be the 50-100 year consequence of the vacation for the City?

(5) Options. Are there other options to a full vacation that might be feasible and preserve the use of the street or alley?

(6) Services. Is the right-of-way needed for utilities, loading, or other services? Might it be in the future? How would these needs be alternatively served?

(7) Access. Does the right-of-way provide primary or secondary access to abutting properties for either vehicular or pedestrian access? Does vacation of the right-of-way impact off-street parking?

(8) Light, View, and Air. What is the potential impact on view sheds, light, and air?

(9) Height, Bulk, and Scale. What could be the resultant changes in height and bulk on the block? What could be the impact on the form and orientation of buildings on the block relative to surrounding blocks?

(10) Pedestrian Connections. Does the right-of-way function as a mid-block or through block connection or provide other linkages to existing sidewalks or pedestrian ways.

(11) Use of Right of Way. Is the right-of-way adjacent or leading to any park, open space, natural area, or any other natural or man-made attraction?

(12) Comprehensive Plan. Is the vacation request consistent with the goals and objectives of the Comprehensive Plan?

(13) Other Plans/Policies. Is the right-of-way included in or identified by any City improvement project or adopted plan?

(14) Zoning District. Is the vacation request consistent with the purposes of the zoning district in which it is located, the uses permitted in the zoning district, and the district's contextual standards/regulations and/or design elements/standards?

(B) **Criteria for Establishing Conditions**. The Plan Board shall only establish conditions for a requested vacation if **all** of the following three (3) criteria are met:

(1) The right-of-way is judged as not important to the City's neighborhoods in terms of providing access for residents, and/or property owners, space for utilities, and a means to provide City services; and,

(2) The right-of-way is not important to the City's present or future transportation network in terms of automobile, bicycle, or pedestrian traffic; and,

(3) The right-of-way does not serve as the primary access to parcels.

(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. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09; amend Ord. 31490-16, passed 5-04-16; amend Ord. 31738-19, passed 5-29-19)

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Section 150.500
Conditional Use and Specific Use Regulations

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150.500 Purpose

When a proposed use is permitted in a zoning district as a conditional use, as set forth in the Use District Regulations, a conditional use permit is required and the application for such conditional use permit shall be submitted and reviewed according to the standards outlined in this Zoning Code. (Ord. 30515-05, passed 12-28-05)

150.505 Pre-application Meeting Encouraged

The applicant and their architect/engineer are encouraged to meet with the staff of the Planning and Community Development Department or the Zoning Administrator, or his/her designee, prior to submitting an application for a conditional use permit. The purpose of this meeting is to discuss early and informally with the applicant the purpose and effect of these zoning regulations and the criteria and standards contained within. However, no action shall be taken at such a meeting and no discussions, opinion, suggestions, or recommendations shall be relied upon by the applicant to indicate subsequent approval or disapproval of the application. (Ord. 30515-05, passed 12-28-05)

150.510 Submission of Application

An application form for a conditional use may be obtained in the Department of Planning and Community Development. The application shall be in such form and contain such information as shall be prescribed from time to time by the Director of the Department of Planning and Community Development. Submission of the application shall also include the application fee, as set forth in the schedule of fees adopted by the City Commission. The application for a conditional use permit shall disclose all uses proposed for the development, their location, extent, and characteristics. (Ord. 30515-05, passed 12-28-05)

150.515 Conditional Use Application Procedures

(A) Review for Completeness. Within 10 days after receiving an application for conditional use certificate, the Secretary of the Board of Zoning Appeals shall review the submitted application for completeness and compliance with the applicable submission requirements. If the application is deemed insufficient, the Secretary of the Board of Zoning Appeals shall notify the applicant of the necessary changes or additional information needed. When the application is deemed complete and the application fee has been paid, the Secretary of the Boards of Zoning Appeals shall officially accept the application for consideration of the action(s) requested on the date such determination is made and place it on the Board of Zoning Appeals' agenda.

(B) Distribution of Plans. When the Secretary of the Board of Zoning Appeals determines that the application is complete, the Secretary of the Board of Zoning Appeals shall forward the application to appropriate City departments and professional consultants for review and comment. Any reports, comments, or expert opinions shall be returned to the Secretary of the Board of Zoning Appeals within fourteen (14) days from the date the application is deemed complete.

(C) Transmission to the Board of Zoning Appeals. The Secretary of the Board of Zoning Appeals shall distribute the application for conditional use permit and any reports prepared by the individuals in sub-section (B) above to the Board of Zoning Appeals, prior to the time of the Board's review at their next regularly scheduled meeting. (Ord. 30515-05, passed 12-28-05)

150.520 Reserved (Ord. 30515-05, passed 12-28-05)

150.525 Public Hearing and Notice by the Board of Zoning Appeals

(A) A hearing on the application shall be held by the Board on an application for a conditional use permit within 60 days after a complete application has been filed unless otherwise agreed by the applicant. Written notice of the hearing shall be sent at least fourteen (14) days prior to the hearing by first class mail to the applicant, the owners of record, as they appear on the County Auditor's or Treasurer's current tax list, of all parcels located within 250 feet as they appear on the application, and the notice shall be sent to the Priority Board site office in which the property is located. The notice of such hearing shall state the time, place, date, and subject of the hearing. The failure of delivery of such notice shall not invalidate any subsequent proceedings. Any party in interest may appear and be heard at the hearing in person, by agent, or by attorney.

(B) The Board of Zoning Appeals may recess such hearings from time to time, and, if the time and place of the continued hearing is publicly announced at the time of the adjournment, no further notice shall be required. (Ord. 30515-05, passed 12-28-05)

150.530 Burden of Presenting Evidence

The burden of presenting evidence to the Board of Zoning Appeals that is sufficient to lead the Board to conclude that the application should be granted shall be upon the applicant. (Ord. 30515-05, passed 12-28-05)

150.535 General Criteria for all Conditional Uses

A conditional use and uses accessory to such conditional use shall be permitted in a district only when specified as a conditional use in such district, and only if such use conforms to the following general criteria, which are in addition to specific conditions, standards and regulations set forth in Section 150.565. The Board of Zoning Appeals shall review the particular facts and circumstances of each proposed use in terms of the following criteria and shall find adequate evidence that:

(A) The conditional use will be designed, constructed, operated and maintained so as to be harmonious and appropriate with the prevailing existing or intended character of the general vicinity.

(B) The establishment, maintenance or operation of the conditional use will not endanger the public health, safety or general welfare.

(C) The conditional use will not be more hazardous or more disturbing to the existing and future use and enjoyment of properties in the immediate vicinity than uses that are permitted by right, nor substantially diminish or impair property values within the neighborhood.

(D) The establishment of the conditional use in the proposed location will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

(E) The conditional use will be minimally impacted in the future by surrounding uses permitted by right that may be incompatible with the proposed conditional use. (Ord. 30515-05, passed 12-28-05)

150.540 Action by the Board of Zoning Appeals

(A) The Board of Zoning Appeals shall take one of the following actions:

(1) If the proposed conditional use is determined by the Board of Zoning Appeals to be appropriate and in conformance with the review criteria outlined in Section 150.535, the Board of Zoning Appeals shall approve the conditional use certificate. As part of the approval, the Board of Zoning Appeals may prescribe reasonable requirements on the proposed use to ensure that the development conforms with the intent and purposes of Section 150.535.

(2) The Board of Zoning Appeals shall deny the application if the Board concludes that the proposed conditional use will not be in compliance with the requirements of this Zoning Code. Such action shall be stated in writing and include specific findings, based upon the evidence submitted, justifying such a conclusion.

(B) If the Board of Zoning Appeals fails to act within 60 days from the date the application was officially accepted by the Secretary of the Board of Zoning Appeals, or an extended period as may be agreed upon, then the applicant may deem the application denied. (Ord. 30515-05, passed 12-28-05)

150.545 Decisions and Records

The Board shall render a written decision on an application for a conditional use without unreasonable delay after the close of the hearing, and in all cases, within fourteen (14) days from the close of the hearing. The Secretary of the Board of Zoning Appeals shall maintain complete records of all actions of the Board with respect to applications for conditional uses. The Secretary of the Board shall issue a written memorandum after each meeting of the Board, recording the decision of the Board on an application for a conditional use. Such memorandum shall be sent to the applicant as notice of the Board's decision. (Ord. 30515-05, passed 12-28-05; amend Ord. 31752-19, passed 9-4-19)

150.550 Terms and Duration of Conditional Use Permit

(A) Following the Board's approval of a use and/or an application for a written decision, the Zoning Administrator shall issue a conditional use permit. Once the written decision has been issued, the applicant shall apply to the Zoning Administrator for approval of a site design plan application.

(B) A conditional use permit shall authorize a particular conditional use on a specific parcel for which it was approved. A conditional use permit issued pursuant to this Section shall be valid only for the use and the operation of such use as specified on the permit. Any change in the operation, from those activities authorized on the conditional use permit, shall

necessitate an amendment to such permit in accordance with Section 150.560, Amendments to a Conditional Use Permit. The breach of any condition, safeguard or requirement shall constitute a violation of this Zoning Code. Approval shall automatically be void if, for any reason, the conditional use shall be discontinued for any period of 184 days or more. After such discontinuance, a new application shall be submitted and considered in accordance with this Zoning Code. When evaluating if a conditional use has been discontinued, the criteria in sub-section 150.140.4 (G) shall be considered.

(C) The conditional use permit shall expire one year from the date of issuance, unless:

(1) The site design plan is approved for uses that require a site design plan;

(2) In the opinion of the Zoning Administrator, substantial progress in the establishment of the use is accomplished; or

(3) As otherwise specifically approved by the Board of Zoning Appeals. (Ord. 30515-05, passed 12-28-05; amend Ord. 30762-08, passed 7-16-08)

150.555 Reapplication

No re-application for a conditional use permit that was denied by the Board of Zoning Appeals shall be accepted by the Secretary of the Board of Zoning Appeals unless the re-application is based on a substantially revised application that addresses the reasons for the denial of the initial application. A re-application shall comply with all the requirements of this Section, including payment of the required fee. (Ord. 30515-05, passed 12-28-05)

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 following the date the written decision by the Board of Zoning Appeals is issued. 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; amend Ord. 31490-16, passed 5-04-16; amend Ord. 31752-19, passed 9-4-19)

150.560 Amendments to a Conditional Use Permit

Procedures for the amendment of the conditional use permit shall be the same as for the original permit application, with the exception that minor changes thereto, as determined by the Zoning Administrator, shall not require the resubmission of a new conditional use permit application and may be approved by the Zoning Administrator. "Minor changes" to a conditional use permit shall include, but not be limited to, alterations or additions which do not increase the gross floor area of a building or the size of a structure by more than ten (10) percent at the time of application for an amendment and which do not otherwise modify the basic use or physical characteristics of the site. (Ord. 30515-05, passed 12-28-05)

150.565 Specific Regulations for Conditional and P* Uses

(A) The regulations for specific uses contained in sub-sections 150.565.1 et. sec. are for certain land uses and are in addition to the standards set forth in the Use District Regulations and other Sections of this Zoning Code. The standards are applicable and must be complied with whether the use is listed with a **P*** or as a conditional use in the applicable zoning district. All standards contained in the regulations governing specific zoning districts shall apply unless inconsistent with the specific standards set forth herein.

(B) For those land uses in the Campus-Institutional District that may or may not have specific regulations below, these uses shall also be reviewed pursuant to the standards in sub-section 150.335.9, Development and Design Guidelines. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09)

150.565.1 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:

(A) 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.

(B) 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.

(C) 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.

(D) 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)

150.565.2 Agriculture, Livestock

The specific regulations for agriculture, livestock shall be as follows:

(A) Any building or other facility, on a zoning lot, used to house or exercise livestock shall be at least 200 feet from any lot in a residential zoning district.

(B) Any land used for the grazing of livestock shall be setback 100 feet from any lot line.

(C) Principal or accessory buildings, other than those facilities used to house or exercise livestock, shall have a minimum front setback of twenty-five (25) feet, a minimum side setback of fifteen (15) feet, and a minimum rear setback of thirty (30) feet.

(D) Agricultural uses shall properly manage animal waste, pursuant to applicable local and state regulations, so as to not create a nuisance or health hazard to adjoining or nearby property owners.

(E) The minimum lot size shall be ten (10) acres. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09)

150.565.3 Amusement Park

The specific regulations for an amusement park shall be as follows:

(A) The minimum lot size shall be 100 acres, and the minimum lot width shall be 500 feet.

(B) The maximum lot coverage is fifty (50) percent.

(C) The maximum height for an amusement structure is eighty (80) feet.

(D) If the facility is adjacent to a residential zoning district boundary, no operations, which involve public participation, shall be carried on between the hours of 11:00 PM and 8:00 AM, Sunday through Thursday.

(E) The minimum parking setback adjacent to any public street is seventy (70) feet.

(F) Existing natural or manmade barriers at the site shall be provided as protection and screening against noise and visual protection for all operations. At a minimum, a fifty (50) foot buffer yard shall be provided along all lot lines. It 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. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09)

150.565.4 Animal Boarding Facility with Outside Run or Kennel

The specific regulations for an animal boarding facility with outside run or kennel shall be as follows:

(A) Outdoor areas devoted to kennels and/or runs shall:

(1) Be located in the rear yard;

(2) Have a minimum side setback of thirty (30) feet and a minimum rear setback of fifty (50) feet;

(3) Have a minimum setback of 200 feet from any residential zoning district boundary; and,

(4) Have a maximum of twenty-five percent (25%) of the gross floor area of the principal building.

(B) Odor and noise shall be adequately controlled to ensure that animals do not create a nuisance.

(C) Within the required setbacks above, screening shall be provided pursuant to sub-section 150.800.8 (F), Screening.

(D) Facility shall be operated in accordance with all applicable State of Ohio and Montgomery County Health Code regulations. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09)

150.565.5 Attached Single-family Dwelling

Intent. It is the intent of this section that townhouses be allowed in areas where they are or may be appropriately intermingled with other compatible types of housing. The purpose of the following standards

is to ensure the efficient, economical, comfortable, and convenient use of land and open space and serve the public purposes of zoning by providing an alternative to the conventional arrangements of setbacks and building areas. The specific regulations for attached single-family dwellings shall be as follows:

(A) Proposals for facades and treatment of external materials shall be submitted as a part of site design plan approval. The design, scale, and building materials shall be single-family residential in character.

(B) If the development is located within an established residential neighborhood, the newly constructed units shall be compatible with the surrounding residential properties in terms of height, massing and size.

(C) Front setbacks for adjacent units may vary a minimum of 3 feet and a maximum of 8 feet.

(D) To break up the mass of the attached units, the front facade of each attached unit should be treated differently, either with different building materials and/or different architectural designs or treatments.

(E) The principal orientation of the attached single-family units shall be the public street on which the lot has frontage. There shall be at least one entrance, of each unit, facing the public street, and the principal windows of the attached single-family units shall also face this street.

(F) Vehicular entrances to the attached single-family development shall be minimized and designed in such a way as to maximize safety, maximize efficient traffic circulation, and minimize the impact on any adjacent residential neighborhood. If an alley is present, parking shall be accessed from the alley, and all parking spaces shall be located behind the front building line, provided that an exception to these requirements may be granted, by the Plan Board, the Board of Zoning Appeals, or the Zoning Administrator, whichever is applicable pursuant to the procedures in Section 150.115, due to depth of the lot, the location of mature trees, or other similar factors.

(G) Setback requirements do not apply to individual attached single-family dwelling lots. Setback requirements do apply to the lot or parcel from which the individual attached single-family dwelling lots are subdivided. In the **ER-3, ER-4,** and **MR-5** zoning districts, the minimum side and rear yard setbacks from the project boundary shall be ten (10) feet.

(H) All accessory structures shall be located behind the rear building line of the attached single-family dwellings.

(I) A subdivision plat shall be submitted with the site design plan or with the Conditional Use Permit application, where individual attached units are to be constructed on individual lots. The subdivision plat shall meet the standards of the subdivision ordinance.

(J) Trash containers, recycling containers, and mechanical equipment shall be screened per the requirements of sub-section 150.800.10, Screening of Accessory Uses.

(K) Applicants must clearly demonstrate that the use will be compatible with the neighborhood, particularly with regard to traffic circulation, parking, and appearance. (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)

150.565.6 Automobile Service Station See Vehicle Fueling Station. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09; amend Ord. 31283-13, passed 12-18-13)

150.565.7 Bed and Breakfast Establishment

The specific regulations for a bed and breakfast establishment shall be as follows:

(A) General Requirements:

(1) The owner or the owner's family shall reside at the same site occupied by the bed and breakfast establishment.

(2) No cooking shall be permitted in guest rooms.

(3) Guests shall stay no more than 30 consecutive nights in any twelve (12) month period. The operator of the bed and breakfast shall maintain a log of all guests, including their name, address, license plate number, and length of stay, and shall make the log available to the Zoning Administrator upon request.

(4) Any building erected, enlarged or modified to accommodate a bed and breakfast shall maintain the appearance of a single-family residence. No rooms shall have direct entrance or exit to the outside of the building, except that emergency exits when required by the Fire Marshal may be provided for emergency purposes only.

(5) Health Department approval of kitchen facilities shall be submitted prior to issuance of a certificate of zoning compliance.

(B) Requirements in the **MNC, ENC, SNC, & MGC** Districts: No more than twelve (12) guest sleeping rooms shall be utilized for a bed and breakfast establishment.

(C) Requirements in the **Single Family Residential Districts, in the Multi-family Districts,** and in the **CI** District when the Bed and Breakfast is adjacent to a single-family residential zoning district:

(1) Use of alternative pavements such as brick pavers is encouraged.

(2) No more than six (6) guest sleeping rooms shall be utilized for a bed and breakfast establishment.

(3) Applicants must clearly demonstrate that the use will be compatible with the neighborhood, particularly with regard to traffic circulation, noise, parking, and appearance.

(4) Exterior lighting shall be residential in character and compatible with the surrounding neighborhood.

(5) A driveway entrance meeting the standards for single-family residential construction shall be provided.

(6) Required parking for guests and employees shall be provided on-site. Parking shall be located behind the front line of the principal building. 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 existing mature trees, or other similar circumstances.

(7) Bed and breakfast establishments may have non-resident employees to perform lodging activities, such as booking rooms and food preparation, approved as part of the conditional use review. The number of employees may be limited as part of the conditional use approval.

(8) If the establishment intends to also cater events, such as weddings or meetings, then these activities shall be included on the conditional use application. As part of the conditional use approval, the number of guests permitted at such events and the number of events per week may be limited. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09; amend Ord. 31142-11, passed 12-21-11)

150.565.7.5 Bee Keeping See Supplemental District Regulations, Section 150.420.1. (Amend Ord. 31028-10, passed 10-20-10)

150.565.8 Campground

The specific regulations for a campground shall be as follows:

(A) The state or local board of health shall approve sanitary facilities.

(B) Accessory uses, including an office and public facilities building wherein the basic food needs of the transient guests can be purchased, are permitted. In addition, one year-round residence may be constructed as a caretaker's home in addition to other facilities on the property.

(C) Any outdoor activity area, swimming pool, or ball field or court which adjoins a residential use shall have a thirty (30) foot setback, which shall be landscaped in accordance with sub-section 150.800.8 (F), Screening. Where night-time lighting of such areas is proposed, large evergreen trees, which are a minimum of six (6) feet in height at planting, shall be required in a location appropriate to screen adjoining residences. Any such night-time lighting shall be constructed in accordance with the standards in sub-section 150.420.3, Exterior Lighting Standards.

(D) The minimum lot size for a campground shall be ten (10) contiguous acres.

(E) Multiple structures may be constructed on the property, such as cabins, lodges and other facilities typical of a camp provided that all structures comply with the setback requirements for a principal structure from adjoining property lines, with the exception of the side setback that shall be a minimum of fifteen (15) feet.

(F) Each building or campsite intended to accommodate guests shall be accessible via an all weather road suitable to accommodate emergency vehicles serving the property. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09)

150.565.9 Car Wash

The specific regulations for a car wash shall be as follows:

(A) A car wash shall have a minimum lot area of one (1) acre and a minimum lot width of 150 feet.

(B) Such facilities shall be located on an arterial or collector street in an area least disruptive to pedestrian and vehicular traffic.

(C) Any proposed loudspeaker or vacuum system shall be approved by the Zoning Administrator.

(D) All access drives shall be located as far as practicable from existing intersections in order to minimize congestion and constricted turning movements.

(E) A car wash shall provide four (4) stacking spaces per bay/stall for self-service establishments and five (5) stacking spaces per bay/stall for an automated establishment. Each stacking space shall be a minimum of 10 feet by 20 feet.

(F) Alleys or driveways in residentially zoned areas adjacent to drive-through facilities shall not be used for circulation of customer traffic. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09; amend Ord. 31283-13, passed 12-18-13)

150.565.10 Cemetery

The specific regulations for a cemetery shall be as follows:

(A) The minimum lot area shall be five (5) acres in the **ER-3, ER-4, and MR-5** Districts and ten (10) acres in the **SR-1 and SR-2** Districts.

(B) Interior drives shall be installed, including the required pavement, as development progresses and as indicated on the approved site design plan.

(C) Sufficient parking spaces shall be provided throughout the cemetery so as not to hinder traffic flow.

(D) No gravesite shall be located within twenty-five (25) feet of a public street right-of-way or residential zoning district boundary.

(E) No building, such as a mausoleum, shall be located within the required setback.

(F) The minimum lot frontage shall be 100 feet on an arterial or collector street.

(G) The minimum parking setback shall be twenty (20) feet. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09)

150.565.11 Church/Religious Assembly

The specific regulations for a church/religious assembly shall be as follows:

(A) General Requirements

(1) The minimum lot size shall be 30,000 square feet.

(2) The minimum side setback shall be twenty (20) feet.

(3) All outdoor children's activity areas are to be enclosed by an ornamental or stockade fence or wall having a height of at least five (5) feet but not exceeding six (6) feet. An entry gate shall be securely fastened.

(4) All activities, programs and other events shall be listed on the conditional use permit application and be directly related to the conditional use permit so granted. These activities 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. If any additional activities are proposed that were not included on the approved conditional use permit, then a new conditional use permit shall be requested according to the procedures in this Section.

(5) Associated uses shall be located on the same zoning lot as the principal use and comply with the building setback requirements set forth in this Zoning Code.

(B) Requirements in the **ER-3, ER-4, MR-5, EMF and MMF** Districts. These regulations shall also apply in the **CI** District if the church or religious assembly is adjacent to a single-family residential zoning district boundary.

(1) No outdoor activity area, such as a swimming pool, ball field or court shall be permitted unless the lot area is three (3) acres or more. When an outdoor activity area adjoins a residential zoning district boundary, these activity areas shall be setback forty (40) feet from any side or rear lot line. These outdoor activity areas shall be located behind the rear building line. Where exterior lighting of such areas is proposed large evergreen trees, which shall be a minimum of six (6) feet at planting, shall be required in a location appropriate to screen adjoining residences.

(2) Parking shall be located behind the front line of the principal building. 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 where necessary due to the shallow depth of a parcel, the location of existing mature trees, or other similar circumstances.

(3) Applicants must clearly demonstrate that the use will not cause a nuisance to neighboring properties with respect to traffic, parking, and noise. Drop off areas may be located in the front yard, but shall maintain a residential character and appearance.

(4) Exterior lighting shall be compatible with the surrounding neighborhood.

(5) Entrances to the site should be minimized and placed in such a way as to maximize safety, maximize efficient traffic circulation, and minimize the impact on any surrounding residential neighborhood.

(6) The scale, massing, and building design shall be compatible with the surrounding neighborhood.

(7) The structure shall be street oriented with pedestrian entrances from the street.

(8) A pedestrian walkway shall be provided from the public sidewalk to the principal entrance. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09; amend Ord. 31142-11, passed 12-21-11)

150.565.12 Community Center See the requirements for church/religious assembly, which are also applicable for a community center. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09)

150.565.12.5 Community Garden

The specific regulations for community garden shall be as follows:

(A) Setbacks for community garden uses shall be the same as the required setbacks for principal buildings in the zoning district in which the community garden use is permitted.

(B) Soil shall not be permitted to erode beyond the property line.

(C) No work or other activity shall occur from 9:00 PM to 6:00 AM.

(D) Seasonal sale of products grown on the premises is allowed pursuant to Section 150.430.2 (F). (Amend Ord. 31028-10, passed 10-20-10)

150.565.12.7 Composting, Incidential See Supplemental District Regulations, Section 150.420.1.5. (Amend Ord. 31028-10, passed 10-20-10; amend Ord. 31574-17, passed 7-05-17)

150.565.13 Congregate Care Facility/Nursing Home

The specific regulations for a congregate care facility/nursing home shall be as follows:

(A) General Standards. The minimum lot size shall be 22,000 square feet, and the minimum lot width shall be 200 feet.

(B) Requirements in the **Multi-family** Districts and the **CI** District, when the facility is located adjacent to a single-family residential zoning district boundary.

(1) For existing structures, no exterior changes may be made that are nonresidential in character. Any new buildings shall be residential in character, street-oriented with pedestrian entrances from the street, and compatible with the surrounding residential development.

(2) Parking shall be located behind the front line of the principal building. An exception may be granted to this requirement where necessary due to the shallow depth of a parcel, the location of existing mature trees, or other similar circumstances.

(3) The minimum side setback for new structures shall be twenty (20) feet.

(4) Applicants must clearly demonstrate that the use will be compatible with the neighborhood, particularly with regard to traffic circulation, parking, and appearance.

(5) Exterior lighting shall be compatible with the surrounding neighborhood.

(C) Requirement in the **MX** District. A congregate care/nursing home shall only be permitted when part of a multi-use development, and it shall not occupy the majority of gross floor area in this multi-use development. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09)

150.565.14 Construction & Demolition Waste Facilities See Sanitary Waste Facilities (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09)

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. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09; amend Ord. 31490-16, passed 5-04-16)

150.565.16 Cultural Institution

The specific regulations for a cultural institution shall be as follows:

(A) Requirements in the **Multi-family Districts** and the **CI** District when adjacent to a single-family residential zoning district boundary:

(1) The minimum lot size shall be 30,000 square feet.

(2) The minimum side setback shall be twenty (20) feet.

(3) The maximum lot coverage is fifty (50) percent.

(4) Parking shall be located behind the front line of the principal building. 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 where necessary due to the shallow depth of a parcel, the location of existing mature trees, or other similar circumstances.

(5) Applicants must clearly demonstrate that the use will be compatible with the neighborhood, particularly with regard to traffic circulation, parking, and appearance. Drop off areas may be located in the front yard, but shall maintain a residential character and appearance.

(6) Exterior lighting shall be compatible with the surrounding neighborhood.

(7) Entrances to the site should be minimized and placed in such a way as to maximize safety, maximize efficient traffic circulation, and minimize the impact on any surrounding residential neighborhood.

(8) The scale, massing, and building design shall be compatible with the surrounding neighborhood.

(9) Such uses should be located on an arterial or collector street or have direct access to an arterial or collector street to minimize impacts on local streets and residential neighborhoods.

(10) All access drives shall be located as far as practicable from an existing intersection in order to maximize traffic safety and minimize congestion and constricted turning movements.

(11) All activities, programs and other events shall be listed on the conditional use permit application and be directly related to the conditional use permit so granted. If any additional activities are proposed that were not included on the approved conditional use permit, then a new conditional use permit shall be requested according to the procedures in this Section.

(12) The structure shall be street oriented with pedestrian entrances from the street.

(13) A pedestrian walkway shall be provided from the public sidewalk to the principal entrance.

(B) Requirement in the **MX** District. A cultural institution shall only be permitted when part of a multi-use development, and it shall not occupy the majority of gross floor area in this multi-use development. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09; amend Ord. 31142-11, passed 12-21-11)

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:

(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.

(B) Requirements in the **Single and Multi-family** Districts and the **CI District**, if the Center is located adjacent to a single-family residential zoning district boundary:

(1) For existing residential structures, no exterior changes may be made that are nonresidential in character. Any new buildings shall be residential in character, street-oriented with pedestrian entrances from the street, and compatible with the surrounding residential development. For existing or new buildings, drop off areas may be located in the front yard, but shall maintain a residential character and appearance.

(2) Parking shall be located behind the front line of the principal building. 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 where necessary due to the shallow depth of a parcel, the location of existing mature trees, or other similar circumstances

(3) The maximum lot coverage is fifty (50) percent.

(4) The minimum side setback for new structures shall be twenty (20) feet.

(5) Applicants must clearly demonstrate that the use will be compatible with the neighborhood, particularly with regard to traffic circulation, parking, and appearance. The hours of operation may be restricted through the conditional use permit.

(6) The location, dimensions, and design concept of any proposed signage should be provided at the time of the conditional use permit application.

(7) Exterior lighting shall be residential in character and compatible with the surrounding neighborhood.

(8) Entrances to the site should be minimized and placed in such a way as to maximize safety, maximize efficient traffic circulation, and minimize the impact on any surrounding residential neighborhood.

(C) Requirement in the **MX** District. A day care center shall only be permitted when part of a multi-use development, and it shall not occupy the majority of gross floor area in this multi-use development. (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; amend Ord. 31490-16, passed 5-04-16)

150.565.18 Dog Park; Skate Park

The specific regulations for a dog park or a skate park shall be as follows:

(A) The minimum lot size shall be two (2) acres.

(B) Trails and activity areas for dogs and structures for skating shall be setback from side and rear lot lines a minimum of sixty (60) feet. The setback shall be measured from the outer edge of the trail activity area, or structure.

(C) Existing natural or manmade barriers at the site shall be provided as protection and screening against noise and visual protection for all operations. At a minimum, a fifty (50) foot buffer yard shall be provided along all lot lines that abut a residential zoning district. It 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.

(D) In areas that are to be lit for nighttime activities and are adjacent to residential zoning districts, large evergreen trees, which are a minimum of eight (8) feet in height when planted, shall be required in a location appropriate to screen adjoining residences. The trees required in this sub-section may also be used to satisfy the buffer requirement in sub-section 150.565.18 (C) above.

(E) To insure compatibility with surrounding land uses, the Board of Zoning Appeals may limit the hours of operation. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09)

150.565.19 Drive-thru Facility Associated with Principal Use; Freestanding Drive-thru Facility

The specific regulations for a drive-thru facility associated with a principal use or a freestanding drive-thru shall be as follows:

(A) Drive-thru facilities shall have a minimum lot area of one (1) acre and a minimum lot width of 150 feet.

(B) Such facilities shall be located on an arterial or collector street in an area least disruptive to pedestrian and vehicular traffic.

(C) Any proposed loudspeaker system shall be approved as part of the application.

(D) All access drives shall be located as far as practicable from existing intersections in order to minimize congestion and constricted turning movements pursuant to Engineering standards.

(E) Stacking spaces shall be provided for any use having a drive-thru facility. The following standards shall apply to all drive-thru facilities:

(1) Stacking spaces and lanes for drive-thru stations shall not impede on and off site traffic movements and shall not create a potentially unsafe condition where crossed by pedestrian access to a public entrance of a building.

(2) Drive thru lanes shall be separated from off-street parking areas. Individual lanes shall be curbed or otherwise distinctly delineated.

(3) Approach lanes for drive-thru facilities shall have the following minimum widths:

(a) One lane = 12 feet.

(b) Two or more lanes = 12 feet per lane.

(4) All drive-thru facilities shall be provided with a bypass lane with a minimum width of 10 feet.

(5) Each stacking space shall be a minimum of 10 feet by 20 feet.

(F) Alleys or driveways in residentially zoned areas adjacent to drive-thru facilities shall not be used for circulation of customer traffic.

(G) The number of stacking spaces shall be provided as follows:

(1) Financial institutions with drive-thru facilities: 4 stacking spaces for the first drive-through window and 2 stacking spaces for each additional station.

(2) Drive-In or Fast Food Restaurant: six (6) stacking spaces per drive-thru window measured from the order board or station.

(3) All other uses: 3 stacking spaces for each window or station, except in the MNC, MGC, and MX Districts where 2 stacking spaces shall be provided.

(H) The hours of operation of a drive-thru facility may be limited by the Board of Zoning Appeals as a condition of approval for the conditional use permit. In evaluating this provision, the Board shall consider the proximity of residential zoning districts, schools, places of religious assembly, and parks/playgrounds. (Ord. 30515-05, passed 12-28-05; amend Ord. 30762-08, passed 7-16-08; amend Ord. 30893-09, passed 7-15-09; amend Ord. 31738-19, passed 05-29-19)

150.565.20 Emergency Housing

The specific regulations for emergency housing shall be as follows:

(A) No client or clients shall remain at the facility for a period greater than sixty (60) days.

(B) Emergency housing facilities shall have a minimum of thirty-five (35) square feet of gross floor area for each shelter bed.

(C) Outdoor waiting for clients, if any, shall not be in the public right-of-way, must be physically separated from the public right-of-way, and must be large enough to accommodate the expected number of clients.

(D) During operating hours, on-site supervision shall be provided at all times.

(E) At least one (1) toilet and one (1) shower shall be provided for every fifteen (15) shelter beds of design capacity.

(F) This facility shall be located at least 1000 feet from a transitional housing shelter or a protective care facility. Separation distances are measured from property line to property line by the shortest distance.

(G) Emergency housing shall only be permitted in the area of the City of Dayton bounded by U. S. Highway 35 to the north, Veteran's Parkway to the West, Perry to the East and Patterson Boulevard to the south. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09; amend Ord. 31028-10, passed 10-20-10)

150.565.21 Equipment Sales/Rental/ Service

The specific regulations for equipment sales/rental/service shall be as follows:

(A) General Requirements

(1) Parking areas, storage areas, maneuvering lanes and access ways to public streets shall be designed and maintained to cause no interference with the safe and convenient movement of automobile and pedestrian traffic on and adjacent to the site.

(2) All repair, sales, and rental activities shall take place within a wholly enclosed building.

(3) No inoperative motor vehicles, equipment, or parts shall be permitted to remain outside on the property.

(4) The minimum lot size shall be one (1) acre and the minimum lot width shall be 100 feet.

(5) Natural or man-made barriers shall be provided to lessen any impact of the facility on and views from an adjacent residential area, as required by the Board of Zoning Appeals. The Board shall be guided in this determination by the proximity of residential uses, the form of surrounding built environment, and the location and type of surrounding land uses.

(6) The minimum side setback shall be fifteen (15) feet.

(7) Enclosed areas devoted to general outdoor storage of materials and vehicles shall be located in a rear yard only, unless it is determined that placement in a side yard would lessen the impact on adjacent residential uses. The enclosed area shall be setback fifteen (15) feet from any property boundary that abuts a single-family residential district and in no case shall the side and rear setback of the enclosed area be less than ten (10) feet.

(8) Areas devoted to outdoor display shall be located in a side or rear yard and shall comply with all building setbacks and for the district in which they are located as set forth in this Zoning Code.

(9) No outdoor display shall be permitted between the front wall of the principal building and the adjacent public street, except for temporary displays pursuant to sub-section 150.430.2, Permitted Temporary Uses.

(10) Any equipment or vehicles, which are stored or displayed, that are equipped with a boom shall store or display such equipment with the boom at its lowest elevation. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09; amend Ord. 31738-19, passed 05-29-19)

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

(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.

(B) Requirements in **Single and Multi-family Residential** Districts

(1) Exterior lighting shall be residential in character and compatible with the surrounding neighborhood.

(2) No exterior changes shall be made that are non-residential in character.

(3) A driveway entrance meeting the standards for single-family residential construction shall be provided.

(4) The use of alternative paving material, such as brick pavers or porous pavement is permitted and encouraged to retain the residential character in these Districts. (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. 31490-16, passed 5-04-16)

150.565.23 Fraternity/Sorority

The specific regulations for a fraternity/sorority shall be as follows:

(A) The minimum lot size shall be 10,000 square feet. The side and rear setbacks shall be a minimum of twenty-five (25) feet.

(B) The minimum rear and side parking setback shall be twenty (20) feet.

(C) The property shall be owned or under the permanent or continuing control of a nationally recognized, established and chartered fraternity or sorority. Alternatively, the property shall be owned or under the permanent or continuing control of a recognized, established, and operating educational institution which conducts a full-time program of post-secondary educational instruction.

(D) Use shall be for students, faculty or permanent administrative personnel of such educational institution.

(E) Sleeping and living facilities shall be designed and used for such purposes only; no permanent cooking facilities shall be provided in individual sleeping rooms or group sleeping areas.

(F) In any combination of rooms designed for more than one person, the minimum required floor area for the first occupant shall be 150 square feet and not less than 100 additional square feet of floor area for each additional occupant. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09)

150.565.24 Reserved (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)

150.565.24.5 Harvesting

The specific regulations for harvesting shall be as follows:

(A) Accessory buildings and garages shall not be larger than the maximum allowable accessory building or garage in the zoning district in which the harvesting use is permitted, except where a larger accessory building or garage is permitted in the following scenario: ten (10) additional square feet are permitted for every 0.1 (one-tenth) of an acre the zoning lot is over one acre in area.

(B) Setbacks for harvesting uses shall be the same as the required setbacks for principal buildings in the zoning district in which the harvesting use is permitted. Soil shall not be permitted to erode beyond the property line.

(C) No work or other activity shall occur from 9:00 PM to 6:00 AM.

(D) Seasonal sale of products grown on the premises is allowed pursuant to Section 150.430.2(F). (Amend Ord. 31028-10, passed 10-20-10)

150.565.25 Helicopter Landing Facility

The specific regulations for a helicopter landing facility shall be as follows:

(A) Helicopter landing facilities shall be sited and planned in accordance with all Ohio Department of Transportation (ODOT – Office of Airports) and the Federal Aviation Administration (FAA) requirements and recommended design guidelines.

(B) Refueling and repair facilities shall only be permitted in the **Industrial** Districts.

(C) All helicopter landing facilities shall meet the fire suppression and safety standards of the Fire Marshall. Written approval from the Fire Marshall shall be provided at the time a conditional use application is submitted.

(D) The site area and physical facilities shall be able to accommodate aircraft parking and landing pads, motor vehicle and emergency equipment access and parking, buffering and screening, and sufficient helicopter parking spaces to allow the landing of approaching aircraft without delay.

(E) The minimum front, side, and rear setback shall be fifty (50) feet. If the site abuts residentially zoned property, the minimum setback shall be 200 feet. All setbacks are measured from the edge of the landing pad. These distances may be increased by the Board of Zoning Appeals upon consideration of such factors as the number of flights, hours of operation, number and types of aircraft, surrounding land uses in the area, and topography.

(F) All take-off, landing and parking areas shall be surfaced with a dust proof material.

(G) The conditional use application shall include:

(1) An approach/departure flight path site plan showing proposed flight path locations, widths, lengths, slopes and other necessary details.

(2) The operational information, such as the proposed hours of operation; the number, type and size of aircraft to be located at or expected to use the site; maximum number of helicopter trips on a daily, weekly, and annual basis; and the purpose of the helicopter trips and any resulting public benefits. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09)

150.565.26 Hospital

The specific regulations for a hospital shall be as follows:

(A) The minimum lot size shall be two (2) acres.

(B) The minimum lot width shall be 200 feet.

(C) Such use shall be located on an arterial or collector street.

(D) Outdoor storage of ambulances and other vehicles used in the operation of the principal use may be permitted provided such storage areas are located in the side or rear yard in off-street parking areas. The areas devoted to the outdoor storage of such vehicles shall be enclosed with a fence having a minimum height of six (6) feet that shall be screened pursuant to the regulations in the applicable zoning district.

(E) Parking shall be located behind the front lot line of the building. 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 where necessary due to shallow depth of a parcel, the location of existing mature trees, the location of utilities and access points, or other similar circumstances.

(F) Applicants must clearly demonstrate that the use will be compatible with the surrounding land uses, particularly with regard to traffic circulation, parking, noise, and appearance.

(G) Entrances to the site should be minimized and placed in such a way as to maximize safety, maximize efficient traffic circulation, and minimize the impact on any surrounding residential neighborhood. No more than two curb cuts shall be allowed per street frontage. Factors including the number of existing curb cuts in the area, the potential for increased traffic hazards and congestion, and the number of travel lanes of the street that serves the development shall be used to determine the actual number of curb cuts permitted.

(H) The scale, massing, and building design should be compatible with the surrounding built environment.

(I) The public street elevation of the principal structure shall have at least one street-oriented entrance, and contain the principal windows of the establishment.

(J) The location, dimensions, and design concept of any proposed signage should be provided at the time of the conditional use permit application.

(K) Loading and emergency entrance areas shall be sited in such a way so as to minimize the impact on the surrounding land uses.

(L) A traffic analysis may be required from the applicant as part of its application for a conditional use permit. Such analysis may include, but not be limited to, existing background traffic volumes, the proposed traffic flows and volumes, sight visibility for emerging vehicles, and other public safety factors as may be required. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09; amend OD. 31142-11, passed 12-21-11)

150.565.27 Incinerator See Crematorium. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09)

150.565.28 Jail

The specific regulations for a jail shall be as follows:

(A) Facilities shall be located in the Family Court facility (City lots Pt.71 through Pt.74 and 531) and in the area bounded by West Third Street, North St. Mary's Street, West Second Street and North Perry.

(B) Facilities shall be consistent with the purposes stated in sub-section 150.320.1 and the adopted Urban Design Guidelines. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09)

150.565.29 Junkyard/Salvage Yards

The specific regulations for a junkyard/salvage yard shall be as follows:

(A) The minimum lot size shall be twenty (20) acres, and the minimum lot width shall be 250 feet.

(B) All sites, procedures, and processes shall be subject to the approval of the appropriate state agencies; no conditional use permit shall be issued until all necessary state approvals are obtained.

(C) The facilities shall be located on the site in a manner that best minimizes the potential effect of winds carrying objectionable odors to surrounding land uses.

(D) The outdoor storage of junk shall be entirely enclosed within a solid wall or fence that includes solid gates and has a minimum height of 10 feet. Items shall not be piled or stored higher than the top of the fence or wall.

(E) Suitable measures shall be taken to control dust. There shall be no burning of refuse, garbage or other waste materials.

(F) All aspects of a junkyard shall be located no closer than 300 feet to any residential zoning district boundary and 150 feet to all other lot lines.

(G) Within the setback required in the sub-section 150.565.29 (F) 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. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09)

150.565.30 Library; School (Public/Private) Elementary/Secondary

The specific regulations for a library and a school (public/private) elementary/secondary shall be as follows:

(A) General Requirements, except in the Industrial Districts.

(1) Such uses should be located on an arterial or collector street or have direct access to an arterial or collector street to minimize impacts on local streets and residential neighborhoods, with the exception of elementary schools. Elementary schools may be located on local streets provided documentation is supplied that indicates a majority of students are within walking distance of the elementary school.

(2) All access drives shall be located as far as practicable from existing intersections in order to maximize traffic safety and minimize congestion and constricted turning movements.

(3) The minimum side setback shall be twenty (20) feet.

(4) All activities, programs and other events shall be listed on the conditional use permit application and be directly related to the conditional use permit so granted. These activities 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. If any additional activities are proposed that were not included on the approved conditional use permit, then a new conditional use permit shall be requested according to the procedures in this Section.

(5) The structure shall be street oriented with the principal entrance oriented toward the public street.

(6) A pedestrian walkway shall be provided from the public sidewalk to the principal entrance.

(B) Requirements in the **ER-3, ER-4, MR-5, EMF and MMF** Districts. These regulations shall also apply in the **CI** District if the facility is adjacent to a single-family residential zoning district.

(1) The maximum lot coverage is fifty (50) percent.

(2) Parking shall be located behind the front line of the principal building. 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 where necessary due to the shallow depth of a parcel, the location of existing mature trees, or other similar circumstances.

(3) Applicants must clearly demonstrate that the use will be compatible with the neighborhood, particularly with regard to traffic circulation, parking, and appearance.

(4) Exterior lighting shall be compatible with the surrounding neighborhood.

(5) Entrances to the site should be minimized and placed in such a way as to maximize safety, maximize efficient traffic circulation, and minimize the impact on any surrounding residential neighborhood.

(6) The scale, massing, and building design shall be compatible with the surrounding neighborhood.

(C) Requirements in the Industrial Districts.

(1) All entrances to the site shall be located as far as practicable from existing intersections and the number of entrances should be limited in order to maximize traffic safety and minimize congestion and constricted turning movements.

(2) Applicants must clearly demonstrate that the use will be compatible with the surrounding land uses particularly with regard to traffic circulation.

(3) A drop-off/pick-up location, which will not impede traffic on or off the site, shall be provided to insure pedestrian safety.

(4) All activities, programs and other events shall be listed on the conditional use permit application and be directly related to the conditional use permit so granted. These activities shall be adequately and properly supervised so as to prevent any hazard and to assure against any disturbance or nuisance to surrounding properties. If any additional activities are proposed that were not included on the approved conditional use permit, then a new conditional use permit shall be requested according to the procedures in this Section.

(5) Pedestrian walkways should be provided from the parking lot to the building to insure pedestrian safety. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09; amend Ord. 31142-11, passed 12-21-11)

150.565.31 Live-Work Unit

The specific regulations for a live-work unit shall be as follows:

(A) The workspace shall occupy less than fifty percent (50%) of the dwelling unit's gross floor area.

(B) The occupant of the dwelling unit shall be the owner and primary person involved in the business or activity.

(C) Not more than one (1) full-time, non-resident employee may be employed in the live-work space.

(D) A detached garage or shed may be used for the live-work activity, provided no off-street parking spaces are removed or displaced as a result of the live-work activity.

(E) There shall be no outdoor storage of equipment or materials used for the live-work activity.

(F) In no way shall the appearance of a residential structure be altered or the activity within the residence be conducted in such a manner that changes the essential character of the dwelling.

(G) No live-work activity shall be operated in such a manner as to create offensive noise, vibration, smoke, or other particular matter, heat, humidity, glare, electronic interference, or otherwise constitute a nuisance or safety hazard to any occupant of adjacent or nearby properties.

(H) No retail business shall be permitted unless it is conducted entirely by mail, telephone, or computer and does not involve the receipt or sale of merchandise from the premises. No direct sales to patrons or merchandise pick up shall be permitted on the site.

(I) All parking shall be located behind the front building line unless the Plan Board, Board of Zoning Appeals, or the Zoning Administrator, whichever is applicable pursuant to the procedures in Section 150.115, finds that an exception is warranted given the shape of the parcel, the location of mature trees, the principal structure's location on the lot, or other similar factors.

(J) Signs shall be permitted in accordance with the sign regulations for the applicable zoning district.

(K) Parking shall be required in compliance with the applicable zoning district. These parking requirements shall be applied in a manner that considers each live-work unit as a single dwelling unit and that measures the floor area of the work space exclusive of the area devoted to living space.

(L) Any conditional use application to establish a live-work unit or to change the use of a live-work unit shall specifically identify the nature of the work activities, the hours of operation, whether or not there will be one full-time employee or multiple part-time employees, and the number and type of expected deliveries. The application shall also include a floor plan that identifies those areas of the dwelling unit to be used as living space and those areas to be used as work space. The floor plan shall include the nature and location of equipment.

(M) In the **ER-4 and MR-5** Districts, a live-work unit shall only occupy a building originally constructed for non-residential use that existed prior to August 1, 2006.

(N) In the **Multi-family Districts**, a live-work unit shall only occupy a building originally constructed for non-residential use that existed prior to August 1, 2006.

(O) During the conditional use review process, the appropriateness of each proposed business will be evaluated to determine if it is appropriate in the proposed location using the following criteria:

(1) Traffic generated;

(2) Proposed alterations to the existing structure considering the surrounding built environment;

(3) Surrounding land uses;

(4) The classification of the street (i.e. a local, collector street) upon which the proposed site has its primary vehicular access;

(5) Economic health of the area;

(6) Amount of parking required and the ability of the proposed site to accommodate such parking without negatively impacting the character of the surrounding area;

(7) The proximity of non-residential land uses; and,

(8) The type of structure to be used for a live-work unit. (Ord. 30515-05, passed 12-28-05; amend Ord. 30762-08, passed 7-16-08; amend Ord. 30893-09, passed 7-15-09; amend Ord. 31142-11, passed 12-21-11)

150.565.32 Manufacturing, Heavy

The specific regulations for heavy manufacturing shall be as follows:

(A) The minimum lot size shall be seven (7) acres, and the minimum lot width shall be 250 feet.

(B) The use and any associated outdoor storage shall be setback 300 feet from any residential zoning district boundary or use.

(C) All buildings and outdoor storage areas shall be setback a minimum of 100 feet from a front, side or rear lot line, when not adjacent to a residential zoning district boundary.

(D) The facilities shall be located on the site in a manner that best minimizes the potential effect of winds carrying objectionable odors to surrounding properties.

(E) The outdoor storage areas shall be entirely enclosed within a solid wall or fence that includes solid gates and has a minimum height of 10 feet. Items shall not be piled or stored higher than the top of the fence or wall.

(F) Additional fences, walls or shrubs may be required by the Board of Zoning Appeals, if necessary, to adequately screen the materials from adjoining districts or public streets. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09)

150.565.33 Manufacturing, Light

The specific regulations for light manufacturing shall be as follows:

(A) In the **T** District, a light manufacturing use should not be located adjacent to a single-family residential zoning district boundary. If such use is located adjacent to a single-family use, the following standards shall apply:

(1) All site circulation, including loading and unloading, shall take place on site. The alley shall not be used for access to parking areas or loading areas.

(2) Light manufacturing uses shall not have restricted parking lots in single-family residential districts. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09; amend Ord. 31738-19, passed 05-29-19)

150.565.33.5 Microbottler

The specific regulations for a microbottler shall be as follows:

(A) A tasting room to sample beverages produced on-site or off-site is permitted only as an accessory use to the microbottler.

(B) The facility shall be designed and operated so as not to produce odors, gas, dust, or any other atmospheric pollutant detrimental to the health, safety, or general welfare of persons living or working in the surrounding area.

(C) If the facility has no separate, designated loading area in accordance with sub-section 150.700.12(H), loading shall not interfere with vehicular and pedestrian circulation during the facility's hours for wholesale and/or retail sales. (amend Ord. 31283-13, passed 12-18-13, amend Ord. 31738-19, passed 05-29-19)

150.565.33.8 Mixed Use/Residential

The specific regulations for mixed use/residential shall be as follows:

(A) General Requirements

(1) The principal orientation of all mixed use/residential buildings shall be the public street(s) on which the lot has frontage(s). There shall be at least one usable storefront entrance for each building facing the street.

(2) Mixed use/Residential developments shall comply with the Design Standards required by the applicable Zoning District.

(3) Vehicular entrances to mixed use/residential development shall be minimized and designed in such a way as to maximize safety, maximize efficient traffic circulation, and minimize the impact on any adjacent residential neighborhood.

(4) All accessory structures shall be located behind the rear building line of the mixed use/residential development.

(5) Samples of exterior building materials may be requested as a part of site design plan approval pursuant to the procedures in Section 150.115.

(B) Requirements in the MNC, MGC, ENC, EGC, and SNC, Districts.

(1) If an alley is present, parking shall be accessed from the alley, and all off-street parking lots shall be located behind the front building line. 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 these requirements where necessary due to the depth of the lot, the location of mature trees, or other similar factors.

(2) Applicants must clearly demonstrate that the use will compatibly enhance and reinforce the character of the neighborhood, particularly with regard to traffic circulation, parking, and physical appearance.

(3) The ground or first floor areas of mixed use/residential buildings shall be commercial (non-residential) in nature and should also be pedestrian scaled with

non-residential uses that contribute to activated pedestrian environments. Dwelling units shall be located above the first floor.

(4) The retention/reuse of existing structures for mixed use/residential occupancy in a manner which contributes to the character of the commercial corridor and surrounding neighborhood shall be considerations in the granting of a conditional use permit. (amend Ord. 31738-19, passed 05-29-19)

150.565.34 Model Airplane Flying Facility See Recreation Facility, Outdoor (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09)

150.565.35 Motor Vehicle Body Shop

The specific regulations for a motor vehicle body shop shall be as follows:

(A) A detailed analysis of the environmental impact the new facility will have on the immediate surrounding area. This should include such items as lights, noise, outside storage, signs, traffic access, fumes, air pollution, dust, and car storage. This analysis should include the positive steps the applicant proposes to take in order to minimize the adverse environmental impact.

(B) No junk or unlicensed vehicles shall be parked or stored outside on the property.

(C) All activities associated with the facility shall take place indoors.

(D) Parking shall be located behind the front line of the principal building. 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 where necessary due to the shallow depth of a parcel, its irregular shape, or other similar circumstances.

(E) Applicant shall provide the types and amount (volume & weight) of chemicals typically stored on site. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09; amend Ord. 31142-11, passed 12-21-11)

150.565.36 Motor Vehicle Repair See Vehicle Fueling Station (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09; amend Ord. 31283-13, passed 12-18-13)

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:

(A) The minimum lot size shall be one (1) acre, and the minimum lot width shall be 150 feet.

(B) A service garage, leasing department and other activities, including cleaning, servicing and repair, customarily incidental to an automobile dealer shall be permitted provided these activities are conducted in a wholly enclosed building.

(C) No junk, inoperative or unlicensed vehicle, except for the inventory of new or used cars for sale, shall be permitted outside an enclosed building.

(D) Display of vehicles for sale shall be located on a paved surface and shall be setback a minimum of ten (10) feet from any public right-of-way. The outdoor display area for vehicles shall comply with the side and rear building setback requirements set for the district in which the lot is located or be at least ten (10) feet, whichever is greater.

(E) In the **Downtown Districts**, lighting for all areas used for the outdoor display of automobiles shall be reviewed by the Board of Zoning Appeals to insure that surrounding uses are not negatively impacted by the proposed site lighting.

(F) 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. (Ord. 30515-05, passed 12-28-05; amend Ord. 30762-08, passed 7-16-08; amend Ord. 30893-09, passed 7-15-09; amend Ord. 31490-16, passed 5-04-16; amend Ord. 31738-19, passed 5-29-19)

150.565.38 Multi-family Dwellings

The specific regulations for multi-family dwellings shall be as follows:

(A) General Requirements

(1) The principal orientation of all the multi-family buildings shall be the public street on which the lot has frontage. There shall be at least one entrance, for each building facing the street, and the principal windows of the multi-family units shall also face this public street.

(2) Vehicular entrances to the multi-family development shall be minimized and designed in such a way as to maximize safety, maximize efficient traffic circulation, and minimize the impact on any adjacent residential neighborhood.

(3) All accessory structures shall be located behind the rear building line of the multi-family dwellings.

(B) Requirements in the **MR-5** District and the **CI** District when the use is adjacent to a single-family residential zoning district boundary.

(1) If an alley is present, parking shall be accessed from the alley, and all parking spaces 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 these requirements where necessary due to the depth of the lot, the location of mature trees, or other similar factors.

(2) Proposals for facades and treatment of external materials shall be submitted as a part of site design plan approval. The design, scale, and building materials shall be single-family residential in character.

(3) Applicants must clearly demonstrate that the use will be compatible with the neighborhood, particularly with regard to traffic circulation, parking, and appearance.

(4) For existing structures, no exterior changes shall be made that are nonresidential in character. The architecture and historic character of structures in the MR-5 zoning district shall be retained.

(5) The retention and use of existing structures that contribute to the character of the neighborhood shall be a consideration in the granting of a conditional use permit.

(6) Newly constructed multi-family dwellings shall be residential in scale. Building height, massing, and size shall be compatible with adjacent residential development.

(Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09; amend Ord. 31142-11, passed 12-21-11)

150.565.39 Office-Administrative/Professional; Office- Medical/Dental/Health Services; Retail Establishment; Service Establishment, Personal and Business

The specific regulations for administrative/professional offices, for medical/dental offices and health services, for retail establishments, and personal service and business establishments shall be as follows:

(A) Applicants must clearly demonstrate that the use will be compatible with the neighborhood, particularly with regard to traffic circulation, parking, and appearance.

(B) The design of an office-medical/dental/health facility shall be sufficient to accommodate staff, clients, patients and visitors without waiting or queuing outside of the building.

(C) All parking spaces 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 where necessary due to the depth of the lot, the location of mature trees, or other similar factors.

(D) Loading areas shall be sited in such a way so as to minimize the impact on any surrounding residential uses. Sufficient screening meeting the standards in sub-section 150.800.10, Screening of Accessory Uses, shall be provided to screen and diffuse noise impacts on adjacent residences. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09; amend Ord. 31142-11, passed 12-21-11)

150.565.40 Outdoor Display and Outdoor Storage Regulations

All uses with outdoor display and outdoor storage shall comply with the regulations in the applicable zoning district. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09)

150.565.41 Parking Lot as Principal Use

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

(A) Openings for parking access from a public right-of-way shall be a maximum of twenty-five (25) feet wide.

(B) The width of the paved parking area shall not exceed seventy (70) feet as measured from side lot line to side lot line.

(C) The parking lot shall not be immediately adjacent to another premises containing a parking lot as a principal use.

(D) The parking lot shall not be located on a corner lot. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09)

150.565.42 Parking Lot, Restricted

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

(A) The parcel of property to be used is located in a zoning district in which the principal use served is not a permitted or a conditional use, or is located in an adjacent zoning district in which the principal use served is not a permitted or a conditional use.

(B) The parking lot shall be used solely for the parking of passenger vehicles and shall not be used for repair work, vehicle servicing, loading of any kind, or the erection of advertising signs of any kind on the lot.

(C) The parking lot shall be closed between 11:00 p.m. and 7:00 a.m., unless otherwise modified by the Board of Zoning Appeals.

(D) All restricted parking lots with 10 parking spaces or less shall provide a front parking setback that conforms to the requirements set forth by the underlying zoning district. The side and rear setback shall be five (5) feet. The area within the setback shall contain a solid wall or fence with dense living hedge of at least 42 inches in height and one hardy deciduous canopy tree of at least 2-1/2 inches caliper placed no farther apart than 30 feet on center in the required setback.

(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. 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.

(F) Where the front and side setback requirements of the zoning district in which the restricted parking lot is located are stricter than those specified in sub-section 150.565.42 (D) & (E) above, then the stricter yard requirements shall apply in addition to the screening and landscape requirements specified above.

(G) The Board of Zoning Appeals shall impose such further restrictions as may be deemed necessary and appropriate in order to reduce the adverse effect of a restricted parking lot upon the preservation of the residential character and development of the residential district in which the parking lot is proposed to be located.

(H) Restricted parking lots shall comply with the parking requirements for off-site parking in sub-section 150.700.11 (B), Off-Site Parking (Ord. 30515-05, passed 12-28-05; amend Ord. 30762-08, passed 7-16-08; amend Ord. 30893-09, passed 7-15-09; amend Ord. 31283-13, passed 12-18-13; amend Ord. 31490-16, passed 5-04-16)

150.565.43 Parking Structure

The specific regulations for a parking structure shall be as follows:

(A) General Requirements:

(1) Parking structures shall comply with the required setbacks in the underlying zoning district.

(2) In those zoning districts with maximum setback requirements, the Board of Zoning Appeals may increase the maximum setback to soften the impact of the parking structure. In the increased setback, the Board may require additional landscaping, including shade and evergreen trees that are of significant size.

(3) The facility shall be located on a collector or an arterial street.

(B) Requirements in the **MNC, ENC, EGC, SNC, MGC, SGC, T, MX,** and **CI** Districts

(1) Compatibility. Applicants must clearly demonstrate that the use will be compatible with the neighborhood, particularly with regard to traffic circulation, parking, and appearance. The hours of operation may be restricted through the conditional use permit.

(2) Building design. The building shall be designed to be compatible with surrounding development, especially nearby residential uses. Considerations include design elements that break up long, monotonous building walls and any other design elements that are compatible with the desired character of the District.

(3) Building materials. The materials used shall be compatible with the surrounding built environment or the desired character of the District.

(4) Public street facades. The design and layout of the street side of the site shall provide a varied and interesting facade. The ground floor shall be differentiated from the upper floors by stepping back the upper floors; changing materials between the ground and upper floors; and/or including a continuous cornice line or pedestrian weather protection elements, such as awnings. Facades shall be varied using one or more of the following methods: varying the arrangement, proportioning, or design of façade openings; incorporating changes in architectural materials, including texture or color; or projecting or recessing portions or elements of the façade.

(5) Landscaping. The landscaping on the site shall provide an appropriate transition to residential districts, separates and buffers the building from uses in abutting residential districts, and provides visual relief from stark, linear building walls.

(C) Requirements in the **BP** District. The front setback shall be forty (40) feet.

(D) Additional Requirement in the **MX** District. At least fifty percent (50 %) of the frontage along a public street shall be devoted to uses permitted by right or with a P***** in the MX zoning district. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09)

150.565.44 Plant Nursery/Greenhouse

The specific regulations for a plant nursery/greenhouse shall be as follows:

(A) The facility shall be located on an arterial or collector road.

(B) All buildings, equipment, and other activities associated with the use shall be setback seventy-five (75) feet from any residential zoning district boundary and fifty (50) feet from any public street. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09)

150.565.45 Protective Care Facility

The specific regulations for a protective care facility shall be as follows:

(A) The operator or agency operating a care facility shall have at least two (2) qualified house parents or supervisors for each care facility and shall maintain 24-hour supervision at all times by at least one (1) person. The operating agency shall provide social work, psychological and medical services as required.

(B) The Zoning Administrator shall review the care facility site selection and development according to the following required performance criteria as well as other applicable requirements:

(1) The care facility shall provide not less than 200 square feet of outdoor open space per person, excluding the space in the required front setback and driveway and parking spaces, consolidated in a useful configuration and location provided on the site. There shall be no less than 800 square feet of lot area for each individual at maximum capacity.

(2) Every room occupied for sleeping purposes within the care facility shall contain a minimum of 80 square feet of habitable room area for one (1) occupancy, and when occupied by more than one shall contain at least 60 square feet of habitable room area for each occupant.

(3) There shall be one parking space for each three individuals to be housed at the facility based upon the maximum capacity and one parking space for each employee based on the working period when the maximum number of employees is employed on the premises. All parking facilities shall comply with the requirements of Section 150.700, Off-Street Parking and Loading Requirements.

(C) The operator or agency applying for a zoning or occupancy certificate to operate a care facility shall provide to the Board, for review and approval, a plan which documents the need for the home in relationship to the specific clientele served; which identifies the location of similar type facilities existing in the Dayton Metropolitan Area; and which provides for dispersing such facilities within the Dayton Metropolitan Area. The plan will be maintained by the Board and used as a reference document to review future permit applications by the operator or agency.

(D) The operator or agency applying for a zoning or occupancy certificate to operate a care facility shall provide to the Board of Zoning Appeals the following:

(1) A license or statement of need for a license from the applicable governmental unit which may include: the City of Dayton, Montgomery County, the State of Ohio, the federal government or other political subdivisions. Prior to the issuance of a final certificate of occupancy, the operator or agency shall provide evidence that a valid license has been or will be issued.

(2) Submit the sponsoring agency's operational and occupancy standards.

(3) Submit such documentation that indicates the supervisory responsibility of the sponsoring agency and the care facility operator.

(E) The zoning or occupancy certificate issued for a care facility shall be limited to the operator to whom it is originally issued and is not transferable to a subsequent operator.

(F) The Board of Zoning Appeals may order the issuance of a temporary conditional use permit for a period of one year. At the completion of the one-year time period, the care facility operation shall be reviewed by the Board of Zoning Appeals. The Board of Zoning Appeals may extend the temporary conditional use, grant a permanent conditional use or deny the conditional use. The Board of Zoning Appeals in considering the conditional use application shall take into consideration the extent to which the sponsoring agencies have dispersed these facilities within the Dayton Metropolitan Area.

(G) This facility shall be located at least 1000 feet from another such facility, a school (public/private) elementary/secondary, a day care center, a transitional housing shelter, or an emergency shelter. Separation distances are measured from property line to property line by the shortest distance. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09)

150.565.46 Public Safety Facility

The specific regulations for a public safety facility shall be as follows:

(A) Facilities shall be limited to structures that are essential for the distribution of services to the local area.

(B) Areas devoted to general outdoor storage of materials and vehicles shall be located in a rear yard only, unless it is determined that placement in a side yard would lessen the impact on adjacent residential uses. Areas devoted to general outdoor storage shall have a minimum side setback of fifteen (15) feet and comply with the required rear setback in the applicable zoning district.

(C) All outdoor storage of materials, goods, and equipment shall be enclosed with a solid wall or fence, including solid gates. The wall or fence shall have a height tall enough to conceal all operations and materials therein from the view of any observer standing at the grade level of an abutting residential district line or a public street. However, in no case shall the height of the fence or wall be less than six (6) feet.

(D) The minimum lot size shall be 1.5 acres, and the minimum lot width shall be 100 feet.

(E) Parking shall be located behind the front line of the principal building. 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 where necessary due to the shallow depth of a parcel, the location of existing mature trees, or other similar circumstances.

(F) The minimum side yard setback shall be twenty (20) feet.

(G) The maximum lot coverage is fifty (50) percent. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09; amend Ord. 31142-11, passed 12-21-11)

150.565.47 Railroad Station

See Transit Station. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09)

150.565.48 Recreation Facility, Indoor; Theater, Indoor

The specific regulations for an indoor recreation facility and an indoor theater shall be as follows:

(A) General Requirements

(1) The minimum lot size shall be one (1) acre.

(2) To minimize noise, the Board of Zoning Appeals may require noise reduction measures to assure that the level of noise is no more than the prevailing noise levels of permitted uses in the District.

(3) The Board of Zoning Appeals may limit the hours of operations to insure that the proposed use is compatible with the surrounding uses.

(4) Applicant must clearly demonstrate that the use will be compatible with the surrounding land uses and the surrounding built environment, particularly with regarding to traffic circulation, parking and appearance.

(5) Points of ingress and egress to the site shall be minimized and placed in such a way as to maximum safety, maximize efficient traffic circulation, and minimize the impact on the surrounding area.

(B) Requirements in the **MGC, EGC, SGC** and **CI** District

(1) Building and roof design. The building and roof shall be designed to be compatible with surrounding development, especially nearby residential uses. Considerations include design elements that break up long, monotonous building or rooflines and any other design elements that are compatible with the desired character of the District.

(2) Building materials. The materials used for buildings, roofs, fences and other structures shall be compatible with the desired character of the District.

(3) Public street facades. The design and layout of the street side of the site provides a varied and interesting facade. Considerations include the use of setbacks, building placement, roof design, variations in building walls and materials as well as other structural elements.

(4) Landscaping. The landscaping on the site shall provide appropriate transition from commercial to residential districts, separates and buffers the buildings from other uses especially abutting residential districts, and provides visual relief from stark, linear building walls.

(C) Requirement in the **MX** District. The facility shall only be permitted when part of a multi-use development, and it shall not occupy the majority of gross floor area in this multi-use development. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09)

150.565.49 Recreation Facility, Outdoor; Model Airplane Flying Facility; Theater Outdoor; Theater Outdoor/Drive-In

The specific regulations for an outdoor recreation facility, a model airplane flying facility, an outdoor theater, and an outdoor/drive-in theater shall be as follows:

(A) The minimum lot size shall be two (2) acres, and the minimum lot width shall be 200 feet.

(B) The Board of Zoning Appeals may require active recreation areas to be enclosed by a fence, which complies with the requirements for fences in the applicable zoning district, having a minimum height of five (5) feet.

(C) The proposed use shall comply with the standards in Section 150.420, Performance Standards, and shall not generate excessive noise, odor, dust or smoke beyond the premises. In order to minimize any effects of the above, the Board of Zoning Appeals may require all applicable surface areas to be paved, and impose additional noise reduction measures, including mounding, landscaping and sound barriers, to ensure that the level of noise is less than or the same as the prevailing noise levels of permitted uses in the District.

(D) Outdoor rifle ranges, skeet shooting ranges, pistol ranges, and other outdoor activities involving the use of firearms shall be prohibited in all zoning districts.

(E) Delivery trucks shall not be used as refreshment stands, souvenir stands and/or concession stands.

(F) All activities, programs and other events shall be directly related to the conditional use permit so granted, and any proposed 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.

(G) An adequate number of public restrooms shall be provided and maintained.

(H) Vehicular approaches to the property shall be designed so as not to create an interference with traffic on surrounding public streets or roads.

(I) For outdoor, drive-in theaters, there shall be sufficient room on the site to cue waiting vehicles. At a minimum, there shall be a queue lane of at least 200 feet provided on the premises.

(J) The Board of Zoning Appeals may limit the hours of operation to ensure that the proposed use is compatible with the surrounding uses.

(K) Only retail uses that are customary accessory and incidental to the principal use shall be permitted. Included as such retail uses are refreshment stands, souvenir stands, concession stands, and an office.

(L) Swimming pools shall comply with the following additional requirements:

(1) Pools shall be adequately fenced to prohibit unauthorized access to the facility.

(2) Pools and their enclosures shall have a minimum front setback of fifty (50) feet and a side and rear setback of thirty (30) feet.

(3) The enclosure required in sub-section (1) above shall be kept locked at all times the pool is not in use.

(4) The Board of Zoning Appeals may limit the maximum lot coverage of related buildings and lounging/deck areas.

(M) Golf courses, including tees, fairways, greens and golf driving ranges shall be designed and landscaped in such a manner as to reasonably prevent an errant ball from landing out of the golf course. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09)

150.565.50 Recycling Collection Facility, Indoor

The specific regulations for an indoor recycling collection facility shall be as follows:

(A) The facility shall be sited or constructed so as to minimize the potential impacts such as noise and odor on neighboring properties.

(B) Buildings shall not have operable windows or doors, other than required fire exits, within fifty (50) feet of any residential zoning district boundary.

(C) All activities associated with the use shall take place within wholly enclosed buildings.

(D) There shall be no outside storage of any equipment, materials, etc. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09; amend Ord. 31738-19, passed 05-29-19)

150.565.51 Residential Conversion

An existing single-family dwelling may be converted to contain dwelling units for not more than two (2) families, provided there is:

(A) A minimum gross floor area in the dwelling before conversion, exclusive of cellar or basement, of 2,000 square feet.

(B) A minimum of 1,000 square feet of gross floor area provided for each dwelling unit after conversion.

(C) Compliance with all lot size, bulk and other regulations imposed by the applicable zoning district for two-family uses.

(D) One dwelling unit on top of another dwelling unit shall not be permitted.

(E) After conversion, the converted dwelling shall retain the appearance of a single-family dwelling with no major structural alterations to the exterior of the building other than to provide required means of egress from dwelling units. All fire escapes or stairways leading to a second floor shall be completely enclosed within the converted building and shall not be visible from a public street, with the exception of corner lots.

(F) The parking spaces required for two family dwellings shall be provided, and no parking spaces shall be located in front of the principal dwelling.

(G) Trash dumpsters, trash containers, recycling containers, and mechanical equipment shall be screened per the requirements of sub-section 150.800.10, Screening of Accessory Uses.

(H) For determining conversion requirements:

(1) The measurement of the gross floor area of a dwelling before or after its conversion, shall also include floor area devoted to:

(a) Stairwells at each floor;

(b) A finished attic having a headroom of 7 feet or more;

(c) Interior balconies or mezzanines; and

(d) Enclosed porches.

(2) The gross floor area measurement shall not include the floor area of any basement or cellar. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09; amend Ord. 31738-19, passed 05-29-19)

150.565.52 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:

(A) 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.

(B) 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.

(C) 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.

(D) 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)

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:

(1) If outdoor dining is proposed to be in the public right-of-way, a special privilege permit shall be obtained from the City Engineer before a zoning certificate is issued.

(2) Planters or other devices shall be used as a way of defining the area occupied by the outdoor dining.

(3) Extended awnings, canopies, or large umbrellas shall be permitted if located to provide shade or cover.

(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.

(B) The outdoor seating area shall be used in conjunction with, and is under the same management and exclusive control of, a restaurant located on the same or contiguous property. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09; amend Ord. 31490-16; passed 5-04-16)

150.565.54 Retail Establishment See Office-Administrative/Professional. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09)

150.565.55 Reserved (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09)

150.565.56 Sand, Limestone, Shale, Clay, Dirt, and Gravel Operations

The specific regulations for sand, limestone, shale, clay, dirt, and gravel operations shall be as follows:

(A) The minimum lot size shall be fifty (50) acres, and the minimum lot width shall be 250 feet.

(B) A distance of no less than 200 feet shall be maintained at all times from the nearest edge of the excavation area or quarry to any residential zoning district boundary. All other aspects of operations shall maintain a minimum setback of 150 feet from residential zoning district boundaries and seventy-five (75) feet from all other lot lines.

(C) Truck routes shall be established for movement into and out of the development in such a way that it will minimize the wear on public streets and prevent hazards and damage to other properties in the community.

(D) Truck parking areas, maneuvering lanes, and access ways to public streets shall be designed to cause no interference with the safe and convenient movement of automobile and pedestrian traffic on, and adjacent to, the site and shall be built or treated to prevent the creation of dust and drainage problems.

(E) The owner of the facility shall be responsible for the cost of 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.

(F) Processing equipment shall be located at the site in such a way that will minimize adverse noise impact on surrounding land uses.

(G) Existing natural or manmade barriers at the site shall be provided as protection and screening against noise, dust and visual protection for all operations. At a minimum a fifty (50) foot buffer yard shall be provided adjacent to any public street and all site boundaries. It 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.

(H) Stakes of one (1) color shall be set and maintained along the perimeter of the area designated for mineral removal at one hundred (100) foot intervals or less.

(I) All facilities, structures, and activities shall meet all applicable State of Ohio codes.

(J) Any area being excavated shall be enclosed by a fence having a minimum height of seven (7) feet for the entire periphery of the excavated area. Fences shall be adequate to prevent trespass and shall be placed no closer than fifty (50) feet to the top or bottom of any slope. No excavated materials shall be removed or stored, or overburden stored within 100 feet of any lot line not owned or controlled by the operator of said business. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09; amend Ord. 31426-15, passed 7-29-15)

150.565.57 Sanitary Waste Facilities; Construction & Demolition Waste Facilities

The specific regulations for sanitary waste facilities and construction & demolition waste facilities shall be as follows:

(A) Sanitary waste facilities are subject to the provisions of Section 184 of the Charter of the City of Dayton.

(B) These facilities shall have frontage and ingress and egress on at least one (major) arterial roadway as defined on the Official Thoroughfare Plan.

(C) The minimum lot size shall be twenty (20) acres, and the minimum lot width shall be 250 feet.

(D) All aspects of the facility shall be located no closer than 300 feet to any residential zoning district boundary and 150 feet to all other lot lines.

(E) A buffer yard, with a minimum width of fifty (50) feet and located with in the setback required in 150.565.57 (D), shall be provided. It 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) The owner of the facility shall be responsible for the cost of 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.

(G) Truck parking areas, maneuvering lanes, and access ways to public streets shall be designed to cause no interference with the safe and convenient movement of automobile and pedestrian traffic on, and adjacent to, the site and shall be built or treated to prevent the creation of dust and drainage problems.

(H) Applications for these facilities 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 copy of all required state and federal permits and any documentation submitted to obtain said permits.

(5) 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.

(6) 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.

(7) 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.

(8) A description, plan and timetable for 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.

(9) A description, plan and timetable for post-closure activities and monitoring. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09)

150.565.58 School (public/private), College/University

The specific regulations for a school (public/private), college/university shall be as follows:

(A) Requirements in the **EGC** and **SGC** Districts.

(1) Such establishment should be located so as to minimize the amount of space located in a retail setting that is inactive during normal business hours. Such establishments are encouraged to have associated retail uses located in the first floor space nearest the street or sidewalk to contribute to the retail environment of the zoning district.

(2) Applicants must clearly demonstrate that the use will be compatible with the surrounding land uses and the surrounding built environment, particularly with regarding to traffic circulation, parking and appearance.

(3) Points of ingress and egress to the site shall be minimized and placed in such a way as to maximum safety, maximize efficient traffic circulation, and minimize the impact on the surrounding area.

(4) All activities, programs, and other events shall be directly related to the approved conditional use permit and shall be adequately monitored so as to prevent any hazard and to assure against any disturbance or nuisance to surrounding properties, residents, or to the community in general.

(5) The maximum site frontage along a public street is 100 feet.

(6) Building and roof design. The building and roof shall be designed to be compatible with surrounding development, especially nearby residential uses. Considerations include design elements that break up long, monotonous building or rooflines and any other design elements that are compatible with the desired character of the District.

(7) Building materials. The materials used for buildings, roofs, fences and other structures shall be compatible with the surrounding built environment and/or the desired character of the District.

(8) Facades facing public streets. The design and layout of the street side of the site shall provide a varied and interesting facade. Considerations include the use of setbacks, building placement, roof design, variations in materials and building walls as well as other structural elements.

(9) Landscaping. The landscaping on the site shall provide appropriate transition from commercial to residential districts, separates and buffers the buildings from other uses especially abutting residential districts, and provides visual relief from stark, linear building walls.

(10) Pedestrian orientation. The principal structure(s) shall be street oriented with pedestrian entrances from the street.

(B) Requirement in the **CI** District. Those colleges or universities in the CI District shall comply with the regulations in Section 150.335, Campus-Institutional District. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09)

150.565.59 School (public/private), Elementary/Secondary. See Library. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09)

150.565.60 School (public/private), Specialty/Personal Instruction.
The specific regulations for a specialty/personal instruction school, (public/private) shall be as follows:

(A) General Requirements:

(1) All activities shall take place in a fully enclosed sound-resistant building, with closed windows and double-door entrances that provide a sound lock.

(2) All activities, programs, and other events shall be directly related to the approved conditional use permit and 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.

(B) Requirement in the **MNC, ENC, SNC** Districts. Such establishment should be located so as to minimize the amount of space located in a retail setting that is inactive during normal business hours. Such facilities are encouraged to have associated retail uses located in the first floor space nearest the street or sidewalk to contribute to the retail environment of the zoning district. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09)

150.565.61 Self-Storage Facility, Indoor
The specific regulations for an indoor self-storage facility shall be as follows:

(A) General Requirements:

(1) The site design plan shall indicate the orientation of the buildings and the number and size of storage units.

(2) All self-storage units shall prohibit the following

(a) The storage of flammable liquids or radioactive, highly combustible, explosive or hazardous materials

(b) The use of the storage units for any other purpose or use than other dead storage.

(3) The City of Dayton Fire Department shall be provided 24-hour access to the grounds. A lockbox or similar mechanism shall be provided for its use.

(4) The facility shall be located on an arterial street as defined by the Official Thoroughfare Plan.

(5) The maximum size of an individual storage compartment shall be 500 square feet.

(6) No door openings shall be constructed facing any residential zoning district. The Plan Board, 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 regulation due to the shape of the parcel, the location of surrounding structures and utilities, and the location of access points. If an exception is granted, a twenty (20) foot buffer yard shall be provided along the residential zoning district boundary. In this buffer yard, a six (6) masonry wall shall be provided that is softened by vegetative plantings as specified in sub-section 150.800.8 (F) (1) (a).

(7) Ornamental fencing is permitted and encouraged in the front of the building. No fence shall be topped with barbed wire or sharp edged materials.

(8) All storage shall be within a completely enclosed building. The outdoor storage of inventory, materials, vehicles, or merchandise shall not be permitted.

(9) No activities, such as the sale, repair, fabrication, or servicing of goods, motor vehicles, appliances, equipment, or materials shall be conducted from the self-storage units. (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. 31738-19, passed 05-29-19)

150.565.62 Service Establishment, Business See Office-Administrative/Professional. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09)

150.565.63 Service Establishment, Personal See Office-Administrative/Professional. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09)

150.565.64 Sewage/Liquid Waste Treatment Facility; Water Supply/Treatment Facility
The specific regulations for a sewage/liquid treatment facility and a water supply/treatment facility shall be as follows:

(A) The minimum lot size shall be five (5) acres.

(B) Buildings and facilities shall be designed and constructed to be compatible with the surrounding area, so that these facilities or structures will not adversely affect nearby properties.

(C) Existing natural or manmade barriers at the site shall be provided as protection and screening against noise, dust and visual protection for all operations. At a minimum a fifty (50) foot buffer yard shall be provided adjacent to any public street and any residential zoning district. It shall be planted with large and small coniferous trees and one row of evergreen shrubs. The large coniferous 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 coniferous trees shall be at least four (4) feet in height when planted and permitted to grow to a minimum of six (6) feet.

(D) Except as required in sub-section 150.565.64 (C) above, the side and rear setback shall be thirty (30) feet. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09)

150.565.64.5 Single-family Dwelling, Attached, see Section 150.565.5 (amend Ord. 30893-09, passed 7-15-09)

150.565.65 Single-family Dwelling, Detached Cluster

The specific regulations for a single-family dwelling, detached cluster shall be as follows:

(A) General Requirements.

(1) Front and Corner Side Setbacks. A setback equal to the minimum front setback of the applicable zoning district shall be provided along the perimeter of the cluster housing development that is adjacent to any public street.

(2) Side and Rear Setbacks. A setback equal to the minimum rear and side setback of the applicable zoning district shall be provided along the perimeter of the cluster housing development that is not adjacent to any public street.

(3) Ownership Arrangement. Within a cluster development, any ownership arrangement, including fee simple lots, condominiums, and zero lot line parcels, is permitted, provided the arrangement of the dwelling units complies with the setback and spacing requirement in the applicable zoning district.

(4) Common Land. Any land area not delineated for individual ownership shall be considered common land. Legal instruments setting forth the ownership and perpetual maintenance of the common land by the developer, homeowners' association or similar entity or agency shall be required prior to approval of the cluster development.

(5) Maintenance of Common Land and Open Space. In the event the agency or homeowners' association, hereafter referred to as the agency, established to own and maintain the common open space or land, or any successor agency, shall at any time after the establishment of the cluster housing development fail to fulfill any obligation imposed on such agency as a condition of approval of the cluster housing development, the City may serve written notice upon such agency or upon the residents and owners of the cluster housing development, setting forth the manner in which the agency has failed to fulfill its obligation. The notice shall include a demand that such deficiencies be cured within the time specified within the notice. If such deficiencies are not cured within the specified time, the City, in order to preserve the taxable values of the properties within the cluster housing development and to prevent the common open space or land from becoming a public nuisance, may enter upon the common open space and maintain the same and perform the other duties of the agency until such agency shall again resume its obligations. All costs incurred by the City in carrying out the obligations of the agency shall be assessed against the properties within the cluster housing development and shall become a tax lien on the properties.

(6) Phasing of Common Open Space. Any required or provided common open space shall be set aside as part of, or at the time of each phase of development. The common open space set aside for each phase must be proportionate to the overall level of development that will occur as part of each phase.

(7) Density. The number of dwelling units permitted by the density requirements imposed in this sub-section or in the applicable zoning district may be clustered on the development site, rather than placed uniformly across the development site, to provide common open space and to promote creative and innovative residential site planning. Therefore, there shall be no minimum lot size for individual dwelling

units, but all dwelling units shall comply with the spacing requirements for the applicable district.

(8) Plan Requirements. On each lot or on the property as a whole if individual, subdivided lots are not to be provided, the applicant shall depict the maximum parameters, or building envelope for each dwelling unit to depict where each dwelling unit shall be located and to demonstrate compliance with the applicable spacing requirements. If changes are proposed to these locations, the plan shall be re-submitted for approval.

(9) Residential Contextual Standards.

(a) To provide a sense of enclosure and definition to the public street, the front wall of the principal structure(s) shall be parallel to the public street or to its tangent, if the street is curved. There shall be at least one (1) entrance facing the public street and the principal windows of the building(s) shall also face this public street.

(b) Applicants must clearly demonstrate that the proposed development will be compatible with the neighborhood with regard to traffic generation and circulation.

(B) Requirements in the **SR-1** and **SR-2** Districts.

(1) Density. The overall cluster housing development shall not exceed the maximum density of the applicable zoning district.

(2) Building Spacing. The spacing between buildings shall be as follows in Schedule 150.565.65 (B)(2):

Schedule 150.565.65 (B)(2)
Minimum Spacing Between Buildings

Zoning District	**SR-1 & SR-2**
Spacing between Buildings Side to Side	10 feet
Side to Rear	25 feet
Rear to Rear	50 feet

(C) Requirements in the **SMF, EMF, MMF** Districts

(1) Lot Requirements. The requirements in sub-section 150.310.3 (D), Lot Requirements for Multi-family Uses, shall apply to the entire detached single-family cluster development for the zoning district in which it is located.

(2) Maximum Height. The maximum height of single-family dwellings in detached clusters shall be forty (40) feet.

(3) Common Open Space. In the **SMF** District, a minimum of twenty (20) percent of the gross site size shall be designated as common open space. The open space shall

comply with the standards in sub-section 150.310.9 (C) (1) - (4), Open Space in the SMF District.

(4) Building Spacing. The spacing between buildings shall be as follows in Schedule 150.565.65 (C) (4):

Schedule 150.565.65 (C) (4) Minimum Spacing Between Buildings		
Zoning District	**SMF**	**EMF & MMF**
Spacing between Buildings Side to Side	10 feet	6 feet
Side to Rear	25 feet	20 feet
Rear to Rear	50 feet	40 feet

(5) Density. The density in the **SMF** District shall comply with the regulation in Section 150.310.3 (E)(1), Density in the SMF District. In the **EMF** and **MMF** Districts, the setback, spacing, and height regulations in this sub-section as well as the following regulations govern density:

(a) Newly constructed principal dwelling units shall be compatible with adjacent residential development in terms of character, building massing, scale, and bulk.

(b) To create contextually appropriate separations between buildings, principal buildings shall be placed on the site, as viewed from the public street, to mirror the building separations found on the nearest block face in the surrounding residential neighborhood. These separations shall be accomplished by mirroring the space between buildings; architectural features, such as columns or pilasters; or creating a courtyard that breaks up the mass of the principal building.

(D) Requirements in the **T** District

(1) Density. The maximum density shall not exceed fourteen (14) dwelling units per acre. The total number of dwelling units shall be calculated by multiplying the total development area, exclusive of public rights-of-way existing at the time the development plan is submitted, by the number of dwelling units permitted per acre.

(2) Lot Requirements. The requirements in sub-section 150.310.3 (D), Lot Requirements for Multi-family Uses, shall apply to the entire detached single-family cluster development.

(3) Building Spacing. The spacing between buildings shall be as follows in Schedule 150.565.65 (D)(3):

Schedule 150.565.65 (D)(3) Minimum Spacing Between Buildings	
Zoning District	**T**
Spacing between Buildings Side to Side	6 feet
Side to Rear	20 feet
Rear to Rear	40 feet

(E) Requirements in the **CI** District

(1) Density. The density of any portion of any cluster development that is located within 200 lineal feet of a single-family residential zoning district boundary shall not exceed eight (8) dwelling units per acre. The density of any portion of the cluster development that is located more than 200 lineal feet from a single-family residential zoning district boundary shall not exceed ten (10) dwelling units per acre.

The total number of dwelling units shall be calculated by multiplying the total development area, exclusive of public rights-of-way existing at the time the development plan is submitted, by the number of dwelling units permitted per acre.

(2) Building Spacing. The spacing between buildings shall be as follows in Schedule 150.565.65 (E)(2): (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09)

Schedule 150.565.65 (E)(2) Minimum Spacing Between Buildings	
Zoning District	**CI**
Spacing between Buildings Side to Side	10 feet
Side to Rear	25 feet
Rear to Rear	50 feet

150.565.66 Skate Park See Dog Park. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09)

150.565.67 Solar Energy Structure

The specific regulations for a solar energy structure shall be as follows:

(A) General Requirements

(1) Solar energy structures proposed in a historic district shall require a Certificate of Appropriateness.

(2) In the event a solar energy structure ceases useful intended operation for a period of six months, the structure shall be considered abandoned. The owner/operator shall remove the nonfunctioning structure within 180 days after receipt of a notice from the Zoning Administrator to do so.

(3) The area of a solar energy structure shall not count as lot coverage if the ground below the structure is permeable or substantially pervious to water.

(B) Requirements in Residential Districts

(1) Freestanding solar energy structures shall have a maximum height of fifteen (15) feet.

(2) Freestanding solar energy structures shall be permitted in rear yards only.

(3) Solar energy structures shall have the same minimum setbacks for side and rear property lines as other accessory structures.

(C) Requirement in Non-Residential Districts. Solar energy structures shall have the same minimum setbacks for side and rear property lines as other accessory structures.

(D) Requirement When a Conditional Use. The Board of Zoning Appeals may limit the size and/or height of proposed solar energy structures as a part of the Conditional Use process to ensure harmonious and orderly development in the general vicinity. (Amend Ord. 30893-09, passed 7-15-09; amend Ord. 31574-17, passed 7-05-17)

150.565.68 Solar Panel, Building

The specific regulations for a solar panel, building shall be as follows:

(A) General Requirements. Building solar panels proposed in a historic district shall require a Certificate of Appropriateness. Building solar panels may be attached to any part of a roof in accordance with the requirements of this Section. Building solar panels shall not be attached to the side of a building that faces a public street, alleys excluded. The term “side” does not mean “roof.”

(B) Requirements in Residential Districts

(1) Building solar panels attached to a roof shall not extend more than one (1) foot beyond the roof plane onto which it is attached, unless the device is located on the back half of the structure.

(2) In no case shall a building solar panel extend more than three (3) feet beyond the roof plane onto which it is attached.

(3) A building solar panel attached to the side of building shall not extend more than five (5) feet beyond the side of the building onto which it is attached. Building solar panels shall not extend into the required building setback.

(C) Requirements in CBD, UBD, BP, CI, T, WO, MX, Commercial and Industrial Districts

(1) Building solar panels that are within view from the public right-of-way shall not extend more than five (5) feet beyond the roof plane onto which it is attached.

(2) Building solar panels attached to the side of a building shall not extend into the required building setback. (amend Ord. 30893-09, passed 7-15-09; amend Ord. 31752-19, passed 9-4-19)

150.565.68.5 Solid Waste Composting Facility, Class IV.

The specific regulations for a Class IV solid waste composting facility shall be as follows:

(A) The minimum lot size shall be 5 acres and the minimum lot width shall be 150 feet.

(B) The facility shall be located on a collector or higher street classification.

(C) All sites, procedures, and processes shall be subject to the approval of the Ohio EPA and any other appropriate federal, state, or local agencies. No Zoning or Occupancy Certificate shall be issued until all necessary approvals are obtained.

(D) The owner and/or operator applying for a conditional use permit or a zoning or occupancy certificate shall provide an operational plan that will be kept on site and readily available for use by on-site staff and the Zoning Administrator. The plan shall include the general operational and maintenance policies and procedures of the facility, including, but not limited to, procedures relating to odor and dust control, traffic flow, public access, fire prevention, staffing, the acceptance of material to be composted, and the prevention of unauthorized depositing of materials.

(E) There shall be no burning of any material at the facility.

(F) The facility shall only compost materials permitted by its Class IV permit issued by the State of Ohio and is prohibited from composting any prohibited materials.

(G) All materials used in the composting operation, including materials composting and materials to be composted, shall be setback 150 feet from property lines.

(H) A buffer yard, with a minimum width of fifty (50) feet, shall be planted with evergreen trees that create a continuous visual screen within three (3) years of the initial installation around all sides of the property excluding facility entrances and exits. The evergreen trees shall be at least six (6) feet in height when planted and allowed to grow to a minimum of twenty (20) feet.

(I) Sufficient space shall be maintained around piles of material to allow access for emergency fire-fighting equipment and procedures, as described in the operational plan and approved by the Fire Department.

(J) In the WP Overlay District, the facility shall meet all requirements of the Department of Water and no Zoning Occupancy Certificate shall be issued until such requirements are met to the satisfaction of the Department of Water.

(K) All activities shall be conducted in a manner that minimizes hazards, litter, noise, nuisances and vector impacts; and minimizes human contact with, ingestion, inhalation, and transportation of dust, particulates and pathogenic organisms.

(L) Traffic flow into, on, and out of the facility shall be controlled in a safe manner at all times.

(M) If open to the public, public business hours shall begin no earlier than 7:30 AM and end at sunset. Legible directional signs shall be posted at all public entrances.

(N) An attendant shall be on duty during public business hours to staff the facility and ensure that no prohibited materials are brought on site.

(O) If open to the public, the facility shall be designed to prevent public access to the facility outside of public business hours and to prevent materials from being deposited outside the facility or on its grounds outside of public business hours.

(P) Upon completion of operations and/or termination of the facility's operation for any reason:

(1) The operator and/or owner shall provide written notice to the Zoning Administrator of such completion and/or termination. Such notice shall include a notice of the intent to perform site restoration, a description of the site restoration work to be performed and a timetable for the work to be completed. Such written notice shall be provided to the Zoning Administrator at least 30 days prior to beginning site restoration.

(2) The operator and/or owner(s) shall provide site restoration necessary to protect public health, safety, and the environment and comply with applicable local, state, and federal regulations.

(3) The operator and/or owner shall ensure that all of the following site restoration procedures are performed upon completion of operations and/or termination of service:

(a) The operation and all facility grounds, including, but not limited to, ponds and drainage areas, shall be cleaned of all residues including, but not limited to, compost materials, scraps, and other materials related to the operations, and these residues legally recycled, reused, or disposed of.

(b) All machinery shall be cleaned and removed or stored securely.

(c) All remaining structures shall be cleaned of compost materials, dust, particulates, or other residues related to the composting and site restoration operations. (amend Ord. 31574-17, passed 7-05-17)

150.565.69 Sports Facility

The specific regulations for a sports facility shall be as follows:

(A) The facility shall not be located adjacent to a residential zoning district.

(B) Applicants must clearly demonstrate that the use will be compatible with the surrounding land uses and the surrounding built environment, particularly with regarding to traffic circulation, parking and appearance.

(C) Points of ingress and egress to the site shall be minimized and placed in such a way as to maximum safety, maximize efficient traffic circulation, and minimize the impact on the surrounding area.

(D) Facades, which are visible from a public street, shall vary the façade utilizing one or more of the following methods: varying the arrangement, proportioning, or design of façade openings; incorporating changes in architectural materials, including texture or color; or projecting or recessing portions or elements of the façade.

(E) The ground floor shall be differentiated from the upper floors by stepping back the upper floors; changing materials between the ground and upper floors; including a continuous cornice line or pedestrian weather protection elements, such as awnings.

(F) The structure shall be street oriented with pedestrian entrances from the public street.

(G) Depending upon the characteristics of the surrounding land uses, the Board of Zoning Appeals may limit the types of activities permitted; the location of exterior light fixtures; and the location, type, and size of signage; and require additional landscaping beyond the requirements in Section 150.800, Landscaping and Screening Regulations.

(H) All activities, except parking and signage, shall take place inside the facility. No retail sales or similar activities shall take place outside of the principal building. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09)

150.565.70 Theater, Indoor. See Recreation Facility, Indoor. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09)

150.565.71 Theater, Outdoor; Theater Outdoor/Drive-In. See Recreation Facility, Outdoor. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09)

150.565.72 Transit Garage

In the **UBD** District, operable garage doors shall not face a residential zoning district boundary. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09)

150.565.73 Transit Station; Railroad Station

The specific regulations for transit station and railroad station shall be as follows:

(A) General Requirements

(1) The parking, waiting, and stacking areas for all vehicles, including buses, shall comply with the building setback requirements in the applicable zoning district, unless the site is located adjacent to a residential zoning district boundary. When adjacent to a residential zoning district boundary, the minimum side and rear setback shall be thirty (30) feet.

(2) Where the site is adjacent to a residential zoning district, all storage, other than vehicles; buses; trailers; and refuse, shall be indoors.

(3) Such uses shall be located on an arterial street.

(4) Vehicular approaches to the property shall be designed so as not to create an interference with traffic on surrounding public streets.

(5) Any vehicular waiting or stacking areas shall be shown on the site design plan. The Board of Zoning Appeals may limit where these stacking areas are placed on the site or dictate their size to prevent vehicles from stacking on public streets.

(B) Requirement in the SGC District. Parking shall be located behind the front line of the principal building. 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 where necessary due to the shallow depth of a parcel, the location of existing mature trees, or the proximity of residential uses, the location and type of

surrounding land uses, and other similar circumstances. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09; amend Ord. 31142-11, passed 12-21-11)

150.565.74 Transit Turnaround

The extreme edges of the transit turnaround shall be setback 100 feet from any residential zoning district boundary. All setbacks are measured from the edge of the turnaround. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09)

150.565.75 Transitional Housing

The specific regulations for transitional housing shall be as follows:

(A) No client or clients shall remain at the facility for a period greater than twenty-four (24) months.

(B) All functions associated with the shelter, except for children's play areas, outdoor recreation areas, and parking shall take place within the building proposed to house the shelter.

(C) On-site supervision shall be provided at all times.

(D) This facility shall be located at least 1000 feet from another such facility, a school (public/private) elementary/secondary, a day care center, an emergency housing shelter, or a protective care facility. Separation distances are measured from property line to property line by the shortest distance. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09; amend Ord. 31028-10, passed 10-20-10)

150.565.76 Truck/Motor Freight Terminal

The specific regulations for a truck/motor freight terminal shall be as follows:

(A) General Requirements

(1) The minimum lot size shall be three (3) acres, and the minimum lot width shall be 200 feet.

(2) Where the site is adjacent to a residential zoning district, hours of operation may be restricted.

(3) When the site is adjacent to a residential zoning district, the side and rear setback shall be 100 feet.

(4) The facility shall be located on an arterial street, as defined by the Official Thoroughfare Plan.

(5) All vehicular access shall be provided via the arterial street and shall be designed so as not to create an interference with traffic on surrounding public streets.

(6) All truck parking, waiting, loading and stacking areas shall comply with the building setbacks for the district in which the facility is located or the requirements in this sub-section, whichever is greater.

(7) All repair operations shall be conducted inside a principal or accessory building.

(B) Requirement in the **I-1** District. The area devoted to truck parking, waiting, loading, and stacking shall not exceed 100% of the gross floor area of the ground floor of the principal building.

(C) Requirement in the WP Overlay District:

The property owner and/or lessee shall allow and provide access to all onsite storage areas, containers, storage pods, rooms, lockers, vehicles, and/or trailers, whether owned by the property owner, a legal tenant, or other third party, during Source Water Protection and/or Fire Department inspections, whether announced or unannounced. (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)

150.565.77 Two-family Dwellings

The specific regulations for two-family dwellings shall be as follows:

(A) One dwelling unit on top of another dwelling unit shall not be permitted.

(B) The principal orientation of each residential unit shall be parallel to the public street it faces or its tangent if the street is curved. If the unit is located on a corner, the residential unit shall be parallel to that street which was designated as the front at the time a zoning certificate was requested.

(C) The public street elevation of each residential unit shall have at least one street oriented entrance and contain the principal windows of the unit.

(D) All parking spaces 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 where necessary due to special characteristics of the site such as lot depth, the location of existing mature trees, or other similar circumstances. Shared driveways are permitted, with the recordation of perpetual easements to provide for the use and maintenance of the shared driveway.

(E) Trash dumpsters, trash containers, recycling containers, and mechanical equipment shall be screened per the requirements of 150.800.10, Screening of Accessory Uses.

(F) A subdivision plat shall be submitted where individual attached units are to be constructed on individual lots. (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. 31738-19, passed 05-29-19)

150.565.78 Utility Boxes

(A) <u>Location Standards for Utility Boxes</u>.

(1) Utility boxes shall only be located in the public right-of-way with the prior written approval of the City Engineer.

(2) Utility boxes located on property that is not public right-of-way shall be located:

(a) Only within the area of a recorded side yard or rear yard easement that permits such a box; or,

(b) By authority of a written instrument signed by the owner(s) of all properties on which the utility box is to be located and in which sufficient property rights are granted for the location and placement of such a box.

(3) In the **I-1** and **I-2** districts utility boxes may be located within the front yard, corner side yard, rear yard and in a side yard, including within the rear and side setbacks, with approval by the Zoning Administrator, provided the structure adheres to the applicable provisions of this Section.

(4) In all other districts, except **I-1** and **I-2**, utility boxes shall not be located within the front yard or within the corner side yard unless the utility boxes and all their apperturances are located wholly underground. In all other districts, except **I-1** and **I-2**, utility boxes may be located in a rear yard and in a side yard, including within the rear and side setbacks, with approval by the Zoning Administrator, provided the structure adheres to the applicable provisions of this Section, and is located behind the front wall of the principal building.

(5) When located in a side yard, utility boxes shall be placed as far back from a public right-of-way as reasonably possible as determined by the Zoning Administrator.

(6) If multiple utility boxes are proposed for placement in the same vicinity, they shall be located as follows:

(a) If two (2) utility boxes are located within six (6) feet of each other, placement of each structure shall be parallel to the closest public right-of-way as much as possible.

(b) If three (3) utility boxes are located within six (6) feet of each other, placement shall require two structures parallel to the closest public right-of-way with the third directly behind one of the front (and closer to the right-of-way) utility boxes.

(c) If four (4) utility boxes are located within six (6) feet of each other, placement shall be two boxes parallel to the closest public right-of-way, with the third directly behind one of the front two (2) utility boxes and the fourth directly behind the other front utility box.

(d) If more than four (4) utility boxes are located within six (6) feet of each other, placement shall be as determined by the Zoning Administrator.

(7) The placement of any utility box shall not obstruct sight distance requirements for public street intersections as provided in Section 150.410, Visibility at Intersections.

(8) All utility boxes must have at least a ten (10) foot clearance from fire hydrants.

(B) <u>Other Requirements</u>.

(1) Except as otherwise provided for in this Section, the location of a utility box shall be in accordance with sub-section 150.405 (A), Restrictions on Allocations & Dispositions of Required Yards.

(2) All labeling on a single utility box shall cover a combined area no larger than one (1) square foot and shall contain the utility box owner's name, address, and business

phone number so that the public may report a malfunction, damage, or maintenance concerns.

(C) Approvals, Notifications, Information Submissions, Maintenance, and Removals.

(1) Zoning Certificate. When an applicant proposes to place or replace a utility box on property that is not public right-of-way a Zoning Certificate shall be required for the placement, whether permanent or temporary.

(2) Maintenance. Sites containing utility boxes shall be maintained free of weeds and debris. All utility boxes shall remain free of graffiti, and any graffiti shall be promptly removed. Unless otherwise provided for, all maintenance costs and expenses shall be the obligation of the utility provider or applicant.

(3) Removal of Utility Boxes. Obsolete utility boxes, including pads, shall be removed and be replaced with grass, unless other vegetation is required by the Zoning Administrator. Restoration of the property shall occur within three (3) months after the abandonment of the utility box. Unless otherwise provided for, all restoration costs and expenses shall be the obligation of the utility provider or applicant.

(D) Appeals of Decisions. Appeals of decisions of the Zoning Administrator shall be in accordance with sub-section 150.120, Appeals and Variances. (amend Ord. 30893-09, passed 7-15-09)

150.565.79 Utility Substation/Distribution Facility, Indoor

The specific regulations for an indoor utility substation/distribution facility shall be as follows:

(A) General Requirements

(1) Accessory storage of materials related to the facility shall be within a completely enclosed building in **single and multi-family districts** as well as in the **MX, T, and CI** Districts.

(2) Natural or man-made barriers shall be provided to lessen any impact on and views from an adjacent residential area. In making this determination, the proximity of residential uses, the form of surrounding built environment, and the location and type of surrounding land uses shall be considered.

(B) Requirements in the **Single and Multi-family, CI** Districts

(1) A utility substation/distribution facility, indoor shall be permitted as a conditional use in a **single-family, multi-family, and Campus-Institutional district** only when such location is essential to the distribution of service to the immediate neighborhood or when topological features restrict the location of such facilities.

(2) No parking is permitted in association with a public utility/distribution facility.

(3) Fences and walls, in excess of six (6) feet in height shall be setback from every public street right of way line a distance no less than twelve (12) feet and shall be setback from every other property line a distance of no less than ten (10) feet. Within these setbacks, evergreen shrubs and trees shall be planted in addition to the canopy trees required in sub-section 150.565.79 (B)(5) below.

(4) The maximum lot coverage shall be fifty (50) percent.

(5) The entire perimeter of the site shall be landscaped with hardy shade trees 2.5 inches in caliper planted thirty (30) feet on center. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09)

150.565.80 Utility Substation/Distribution Facility, Outdoor

The specific regulations for an outdoor utility substation/distribution facility shall be as follows:

(A) General Requirements

(1) The minimum lot size shall be one (1) acre.

(2) Natural or man-made barriers shall be provided to lessen any impact of the facility on and views from an adjacent residential area. In making this determination, the proximity of residential uses, the form of surrounding built environment, and the location and type of surrounding land uses shall be considered.

(3) The minimum front setback shall be twenty-five (25) feet, and the minimum side setback shall be fifteen (15) feet.

(4) Areas devoted to general outdoor storage of materials and vehicles shall be located in a rear yard only, unless it is determined that the placement in a side yard would lessen the impact on adjacent residential uses. Areas devoted to general outdoor storage shall comply with all building setbacks listed in sub-section 150.565.80 (A)(3) above as well as the required rear setback in the applicable zoning district.

(5) Outdoor storage shall only be permitted if allowed in the applicable zoning district. If permitted, all outdoor storage of materials, goods, equipment and overnight storage of vehicles shall be enclosed with a solid wall or fence, including solid gates. The wall or fence shall have a height tall enough to conceal all operations and materials therein from the view of any observer standing at the grade level at an abutting residential district line or a public street. However, in no case shall the height of the fence or wall be less than six (6) feet. Outdoor storage areas shall comply with the requirements for outdoor storage in the applicable zoning district.

(B) Requirements in the **Single and Multi-family, CI Districts**

(1) A utility substation/distribution facility, outdoor shall be permitted as a conditional use in a **single-family, multi-family, and Campus-Institutional** district only when such location is essential to the distribution of service to the immediate neighborhood or when topological features restrict the location of such facilities.

(2) No parking areas are permitted in association with a public utility/distribution facility.

(3) Fences and walls, in excess of six (6) feet in height shall be setback from every public street right of way line a distance no less than twelve (12) feet and shall be setback from every other property line a distance of no less than ten (10) feet. Within these setbacks, evergreen shrubs and trees shall be planted in addition to the shade trees required in sub-section 150.565.80 (B)(5) below.

(4) The maximum lot coverage shall be fifty (50) percent.

(5) The entire perimeter of the site shall be landscaped with hardy shade trees 2.5 inches in caliper planted thirty (30) feet on center.

(C) In the **SNC** District, utility substation/distribution facility, outdoor shall be permitted as a conditional use only when such location is essential to the distribution of service to the immediate area or when topological features restrict the location of such facilities. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09; amend Ord. 31738-19, passed 05-29-19)

150.565.80.2 Vehicle Fueling Station; Automobile Service Station; Motor Vehicle Repair

The specific regulations for a vehicle fueling station, an automobile service station, and a motor vehicle repair establishment shall be as follows:

(A) Requirements for Vehicle Fueling Stations; Automobile Service Stations; and Motor Vehicle Repair:

(1) The minimum lot size shall be one (1) acre and the minimum lot width shall be 150 feet.

(2) No inoperative motor vehicles, equipment, or parts shall be permitted to remain outside on the property.

(3) Except while being serviced at a pump island or fueling port, no vehicle shall be parked between the fuel pumps, fueling ports, and the front property line.

(4) A car wash establishment may be combined with a vehicle fueling station or an automobile service station, provided that the minimum lot size for the combined uses is a minimum of 50,000 square feet.

(5) An area for vehicular circulation that is not otherwise used for required parking shall be provided at each end of a pump island or fueling port. Such area shall be a minimum of thirty (30) feet in width.

(6) When located on a corner lot, the facility shall have not less than 150 feet frontage on each of the two intersecting streets.

(a) The location of access drives shall be placed as far as possible from the intersection; and

(b) Shall be limited to no more than one (1) access drive per street frontage

(7) Vehicle Fueling Station. The only services permitted to be performed at a vehicle fueling station shall be the dispensing of fuel, oil, air, and windshield wiper fluid and other common vehicular liquids and lubricants.

(8) Automobile Service Station. Automobile service stations shall not provide services to vehicles that exceed one and one-half tons in capacity. All activities, except those required to be performed at a fuel pump, air dispenser or self-serve automobile vacuum, shall be conducted entirely within a building or garage.

(9) Automobile Service Stations and Motor Vehicle Repair. For automobile service stations and motor vehicle repair facilities, parking shall be located behind the front line of the principal building. 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 where necessary due to the shallow depth of a parcel, its irregular shape, or other similar circumstances.

(10) Automotive Service Stations and Motor Vehicle Repair. No oil draining pit or visible appliance for any such purpose, other than filling caps, shall be located within ten (10) feet of any street right-of-way or within twenty-five (25) feet of any residential district, except where such appliance or pit is within a building. (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; amend Ord. 31738-19, passed 05-29-19)

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.

(B) A wall mural shall not cover, destroy, or materially alter a distinctive architectural or historic feature of the building or structure.

(C) Wall murals may be illuminated in accordance with Section 150. 420.3 of this Zoning Code.

(D) Wall murals shall be kept in good repair and free of vandalism. Should a wall mural fall into disrepair or be vandalized, the Zoning Administrator, with the concurrence of the Director of Planning and Community Development, may require the property owner to repair the mural or remove it.

(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.

(4) Any other information the Zoning Administrator deems necessary to review and evaluate the request. (amend Ord. 31283-13, passed 12-18-13; amend Ord. 31490-16, passed 5-04-16; amend Ord. 31574-17, passed 7-05-17)

150.565.81 Warehouse Storage, Indoor

The specific regulations for an indoor warehouse storage facility shall be as follows:

(A) When the site is adjacent to a residential zoning district boundary, all site circulation, including loading and unloading, shall take place on site. The alley shall not be used for access to parking areas or loading areas.

(B) The street elevation of the principal structure shall have at least one street-oriented entrance, and contain the principal windows of the facility. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09)

150.565.82 Water Supply/Treatment Facility See Sewage/Liquid Waste Treatment Facility. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09)

150.565.83 Wholesale Sales and/or Distribution, Indoor

(A) General Requirements.

(1) The minimum lot size shall be one (1) acre.

(2) When the site is adjacent to a residential zoning district boundary, all site circulation, including loading and unloading, shall take place on site. The alley shall not be used for access to parking areas or loading areas.

(3) The street elevation of the principal structure shall have at least one street-oriented entrance, and contain the principal windows of the facility.

(B) Requirement in the **MX** District. The facility shall only be permitted when part of a multi-use development, and it shall not occupy the majority of gross floor area in this multi-use development.

(C) Requirements in the **MGC, EGC**, and **SGC** Districts.

(1) There shall be no outside storage.

(2) Retail uses are permitted provided they are accessory to the principal wholesale sales and distribution use. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09)

150.565.84 Wholesale Sales and/or Distribution, Outdoor

(A) The minimum lot size shall be two (2) acres.

(B) All materials stored outside shall be setback 100 feet from any property line that is adjacent to a residential zoning district boundary. This distance shall be measured from the outer edge of the required screening. All areas for outdoor storage shall be shown on the site design plan.

(C) The area(s) devoted to outdoor storage of any kind shall not exceed seventy-five percent (75%) of the ground floor area of the principal building. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09)

150.565.85 Wind Turbine

The specific regulations for a wind turbine shall be as follows:

(A) Noise from the structure shall comply with sub-section 150.420.2, Maximum Permissible Noise Levels.

(B) A minimum lot size of one (1) acre is required for freestanding wind turbines.

(C) No freestanding wind turbine shall exceed 80 feet in height including the blade.

(D) Setbacks for a freestanding wind turbine shall be farther from the nearest property line than two times the height of the system.

(E) Wind turbines attached to a structure shall not be visible from the public right-of-way.

(F) All moving parts must be at least ten (10) feet from the ground.

(G) In the event a wind turbine ceases useful intended operation for a period six months, the structure shall be considered abandoned. The owner/operator shall agree to remove the nonfunctioning structure within 180 days after receipt of a notice from the Zoning Administrator to do so.

(H) The Board of Zoning Appeals may grant a single Conditional Use for multiple wind turbines.

(I) The Board of Zoning Appeals may limit the number of wind turbines on a single property based on the General Criteria for All Conditional Uses listed in Section 150.535 and the potential visual impact on a viewshed or vista. (amend Ord. 30893-09, passed 7-15-09)

150.565.86 Windmill, Micro

(A) General Requirements:

(1) A Conditional Use permit shall be required for properties where more than three (3) micro windmills are proposed.

(2) Noise from the structure shall comply with sub-section 150.420.2, Maximum Permissible Noise Levels.

(3) Setbacks for a freestanding system shall be farther from the nearest property line than two times the height of the system. In all cases micro windmills shall be at least ten (10) feet from the nearest property line.

(B) Requirements in **Residential** Zoning Districts:

(1) Micro windmills attached to a building shall not be located on the front half of the building.

(2) Micro windmills not attached to a building shall be located in the rear yard only.

(3) Micro windmills attached to a building shall not extend more than five (5) feet beyond the highest point of the building onto which it is attached.

(C) Requirement in **CBD, UBD, BP, CI, T, MX, WO, Commercial and Industrial** Districts: Micro Windmills attached to a building shall not extend more than ten (10) feet beyond the highest point of the building onto which it is attached. (amend Ord. 30893-09, passed 7-15-09)

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Section 150.600
Regulations for Wireless Telecommunication Facilities

§150.600.1 Intent
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§150.600.4 Locations Requiring Conditional Use Approval.
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§150.600.8 Abandoned Telecommunications Facilities.
§150.600.9 Approval Required.
§150.600.10 Exemption of Certain City Property

150.600.1 Intent

These regulations are established to provide for the construction and use of wireless telecommunication towers and facilities as permitted uses and conditional uses depending on the specific land areas of the City in which they are proposed to be located. The purpose of these regulations is to balance the competing interests created by the federal Telecommunications Act of 1996, Public Law 104-104, and the interests of the City in regulating wireless telecommunication towers and related facilities. Specifically, these regulations are intended to achieve the following purposes:

(A) To protect property values;

(B) To regulate a commercial use so as to provide for orderly and safe development within the City;

(C) To provide for and protect the health, safety and general welfare of the residents of the City;

(D) To minimize any adverse effects on residential properties, parks, open spaces and the non-intensive commercial zoning districts;

(E) To promote collocation of wireless telecommunication facilities in order to decrease the number of towers in the City;

(F) To maintain the aesthetic appearance of the City; and,

(G) To maintain, where possible, the integrity of the Zoning Code. (Ord. 30515-05, passed 12-28-05)

150.600.2 Definitions

(A) 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.

(B) Lattice tower. A support structure constructed of vertical metal struts and cross braces forming a triangular or square structure, which often tapers from the foundation to the top.

(C) Monopole: A support structure constructed of a single, self-supporting hollow metal tube securely anchored to a foundation.

(D) Technically Suitable: The location of a wireless telecommunication antenna that reasonably serves the purpose for which it is intended within the band width of frequencies for which the owner or operator of the antenna has been licensed by the Federal Communications Commission (FCC) to operate without a significant loss of communication capability within developed areas of the City.

(E) Telecommunications: The technology that enables information to be exchanged through the transmission of voice, video or data signals by means of electrical or electromagnetic systems.

(F) Wireless telecommunications antenna, antenna, or antenna array: The physical device or an array of elements constituting a physical device through which electromagnetic, wireless telecommunications signals authorized by the FCC are transmitted or received. Antennas used by amateur radio operators are excluded from this definition.

(G) Wireless telecommunications facility: A facility consisting of the equipment and structures involved in receiving telecommunications or radio signals from a mobile radio communications source and transmitting those signals to a central switching computer which connects the mobile unit with the land-based telephone lines.

(H) Wireless telecommunications tower: A structure intended to support equipment used to transmit and/or receive telecommunications signals including monopoles, guyed and lattice construction steel structures. (Ord. 30515-05, passed 12-28-05)

150.600.3 Permitted Locations

A wireless telecommunications tower or facility is permitted in the following areas when in compliance with these regulations and approved by the Plan Board according to the procedures for Major Site Design Review as set forth in Section 150.115, Procedures for Major Site Design Plan Review. Efforts shall be made to locate in the order of priority listed below. If a location other than the most preferred location is proposed, the applicant shall demonstrate to the Plan Board that a technically suitable, higher priority location is not available and that the proposed location is needed to meet the reasonable service requirements of the applicant. Wireless telecommunications antenna, antenna, or antenna arrays are subject to Minor Site Design Review according to the procedures set forth in Section 150.115, Procedures for Site Design Review.

(A) New wireless antennas may collocate on existing telecommunication towers or on existing structures, which have been constructed for other purposes, such as but not limited to water towers, church towers, electric transmission towers, chimneys, and cooling towers.

(B) A wireless telecommunication tower may be located in an I-1 and I-2 zoning district, when located a distance at least 2 times the height of the tower from a residential district.

(C) A wireless telecommunication tower may be located within a recorded electric high tension power line easement, provided that the tower shall not exceed the height of the existing high tension power line towers by more than 10 feet and the wireless telecommunication tower shall be located within 40 feet of such existing high tension power line towers.

(D) Every wireless telecommunication facility in the Well Head Operation District shall file a Regulated Substance Activity Inventory Report. No wireless telecommunication facility shall be permitted that exceeds the limits on the amount of Regulated Substances that can be handled in the Well Head Operation District as listed in sub-section 150.363.5.

(E) Every wireless telecommunication facility in the Source Water Protection districts shall file a Regulated Substance Activity Inventory Report. No wireless telecommunication facility shall be permitted which would result in the sum of the Regulated Substances being handled by all of the uses on the zoning lot to exceed the zoning lot's Total Maximum Daily Inventory, and/or to be of a type and quantity of Regulated Substances of such hazard that the Facility Hazard Potential Rating assigned to the zoning lot is exceeded.

(F) A Wireless Telecommunications Tower shall be permitted in any interstate highway right-of-way and shall be set back from a dwelling unit a distance of one hundred ten percent (110%) of the height of the Tower. (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. 31426-15, passed 7-29-15)

150.600.4 Locations Requiring Conditional Use Approval

A wireless telecommunications tower or facility may be considered in the following areas as a conditional use when approved by the Board of Zoning Appeals according to the procedures set forth in Section 150.500, Conditional Use and Specific Use Regulations. When considering an application, the Board of Zoning Appeals shall determine that the applicant demonstrates compliance with the standards set forth in sub-section 150.600.7, with the General Criteria for Conditional Uses in Section 150.500 and has demonstrated that more preferred locations are not technically suitable. Efforts shall be made to locate the towers in the order of priority listed below:

(A) In a SGC zoning district, when located at least twice the height of the tower from a residential dwelling.

(B) A wireless telecommunication facility that includes a tower shall not be permitted in a single-family or multi-family residential district with the exception of placement on any property with an institutional use (e.g. church, park, library, municipal government, hospital, school, utility) located in these districts. However, antennas attached to existing buildings or structures are permitted. In applying for a permit in any residential district, the applicant must present substantial evidence as to why it is not technically feasible to locate in a more appropriate nonresidential zone. (Ord. 30515-05, passed 12-28-05)

150.600.5 Approval Required by the Landmarks Commission

Except in the UBD and CBD, if a wireless telecommunication facility is proposed to be located in a HD-1, HD-2, and/or HD-3 District, approval from the Landmarks Commission is also required. With approval from the Landmarks Commission, a wireless telecommunications tower or antenna may be located on or in historic structures, districts, or corridors only if concealed so as to be substantially

invisible. The views of, and vistas from, such structures, districts, and corridors shall not be impaired or diminished by the placement of telecommunications towers and antennas. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09)

150.600.6 Standards Applicable for Conditional Use Applications

A wireless telecommunication facility that is proposed in a location that requires conditional use approval shall comply with the following:

(A) A wireless telecommunication facility shall be permitted in a location set forth in sub-section 150.600.4 only to the extent that a technically suitable location is not available in an area identified in sub-section 150.600.3. The applicant shall demonstrate that a technically suitable location in an area identified in sub-section 150.600.3 is not available and:

(1) The applicant shall provide documentation that supports the applicant's claim that no such technically suitable location exists; or

(2) If another tower, building or structure set forth in sub-section 150.600.3 is technically suitable, then the applicant must show that reasonable efforts have been made to:

(a) Request co-location on the existing tower(s), building(s) or structure(s) and that each co-location request was rejected by the owner of the tower, building or structure; or

(b) Request of all owners of properties determined to be locations that are technically suitable to permit construction of a wireless telecommunication tower, within reasonable terms, and demonstrate that each request was rejected.

(B) As a condition of approving the conditional use permit to construct and operate a wireless telecommunication tower in the City, the owner/operator of the wireless telecommunication tower shall be required to allow co-location until said tower has reached full antenna capacity. In no event shall the owner/operator agree to allow fewer than two additional antenna platforms. Agreement to this provision shall be included in the applicant's lease with the landowner, if different from the owner/operator of such tower. Written documentation shall be presented to the Board of Zoning Appeals showing that the owner of the property on which such tower is to be located has agreed to the terms of this subsection as well as all other applicable requirements, regulations and standards set forth in this Section.

(C) Any wireless telecommunication tower proposed as a conditional use shall be located a minimum of one-half mile from any other wireless telecommunication tower proposed or previously approved as a conditional use. (Ord. 30515-05, passed 12-28-05)

150.600.7 Standards Applicable to All Wireless Telecommunication Facilities

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

(A) Towers should be of monopole design with no guy wires. A lattice-type structure may be approved when the applicant demonstrates that such a structure provides greater ability to

collocate additional antenna. Towers and antennas shall be designed to meet all applicable building code requirements.

(B) All wireless telecommunication towers should be constructed with "stealth" design technology. Examples of stealth technology include architecturally screened roof mounted antennas, antennas integrated into architectural elements, the design of the tower to look like a light pole, power pole and trees, or other structures that may blend into the surrounding area.

(C) Unless otherwise provided for in this Section, a wireless telecommunication facility shall comply with the setback and yard requirements applicable to buildings in the underlying zone in which it is located. A wireless telecommunication tower shall be placed upon the lot in such a way as to minimize the visual impact on adjoining roads and properties. In no event shall any portion of a wireless telecommunication facility be located in front of the principal use or building on the lot.

(D) Recognizing that the Federal Aviation Administration (FAA) may impose greater restrictions, a wireless telecommunication tower shall in no event be more than 200 feet in height as measured from the average ground level at the base of the tower. The applicant of a proposed tower shall demonstrate that the proposed tower is the minimum height necessary to accommodate the antenna and is no higher than existing towers housing similar antenna.

(E) Any accessory structure related to the wireless telecommunication facility shall comply with the district regulations in which the tower is located.

(F) The base of the tower and all related facilities shall be completely enclosed with a secure fence having a minimum height of eight (8) feet. Such fence shall be equipped with a locked gate.

(G) A landscaped buffer area of not less than fifteen (15) feet in depth shall be located around the required fence. The buffer area shall be continuously maintained and promptly restored when necessary and shall consist of at least one of the following*:*

(1) A row of hardy evergreen trees tightly spaced and deciduous trees planted twelve (12) feet on center with a 2.5-inch caliper. The initial evergreen plantings shall be no less than six feet tall and planted a maximum of five (5) feet on center.

(2) Existing vegetation, inclusive of trees and shrubs, shall be preserved to the maximum extent possible.

(3) Other appropriate landscaping that achieves the screening objective, as approved by the Plan Board or the Zoning Administrator, as applicable.

(H) The tower shall be painted a non-contrasting gray or similar color minimizing its visibility, unless otherwise required by the Federal Communications Commission (FCC) or the FAA.

(I) The tower shall be equipped with an appropriate anti-climbing device or shall have all climbing pegs from the lower 20 feet of the tower removed and separately secured from the public.

(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.

(K) "No Trespassing" signs and a warning sign shall be posted on the required fence in clearly visible locations. The warning sign shall include phone numbers for the police, fire and county emergency management facilities, and a local or toll-free telephone number of whom to contact in the event of an emergency. The warning sign shall be a minimum of 24

inches by 24 inches. No other signs or advertising shall be located anywhere on the facility or site.

(L) After issuance of a building permit to construct a Wireless Telecommunication Facility, the applicant shall commence construction within six (6) months and shall complete construction within one (1) year or the permit shall expire.

(M) All utility lines from the utility source to the Wireless Telecommunication Facility shall be underground. (Ord. 30515-05, passed 12-28-05; amend Ord. 31490-16, passed 5-04-16)

150.600.8 Abandoned Telecommunications Facilities

(A) In the event the use of a wireless telecommunications tower ceases for a period of six months, whether the tower has had no antenna mounted upon it or the antenna(s) mounted thereon is not operated, the facility shall be considered abandoned. The owner/operator shall agree to remove the nonfunctioning facility within 180 days after receipt of a notice from the Zoning Administrator to do so.

(B) In the event that more than one wireless telecommunication service provider is using a wireless telecommunications tower, the tower shall not be considered abandoned until all such users cease using the tower, as provided in this Section.

(C) The site shall be restored to its original state within six (6) months following the date that the wireless telecommunications tower or facility is no longer operational. (Ord. 30515-05, passed 12-28-05)

150.600.9 Approval Required

(A) All wireless telecommunications towers and facilities shall comply with the procedures for site design review set forth in Section 150.115, Site Design Review Procedures.

(B) In addition to the submission requirements for site design plans and conditional use permits, the applicant shall submit the following additional items:

(1) Name, address and telephone number of the owner or lessee of the parcel of land on which the telecommunications facility is to be situated.

(2) The legal description, including County Auditor's parcel identification number, city lot number, and address upon which the telecommunications facility is to be situated.

(3) The names, addresses and telephone numbers of all owners of other telecommunications facilities within a 2,500 feet radius of the proposed new tower or antenna, including City-owned property.

(4) Detailed description of the wireless telecommunications towers or facility's capacity including the number and types of antenna that it can accommodate.

(5) Demonstration that the wireless telecommunications tower must be located where it is proposed in order to service the applicant's service area, including an explanation of why a tower at this proposed site is technically necessary.

(6) When the telecommunications tower is located on a property with another principal use, the applicant shall present documentation that the owner of the property has granted an easement or entered into a lease for the proposed facility and that the vehicular access is provided to the facility.

(7) Documentation certifying that the wireless telecommunication facility complies with all current Federal Communications Commission (FCC) regulations for non-ionizing electromagnetic radiation (NIER).

(8) A vicinity map (at a scale of 1" = 1,000") indicating within a two-mile radius of the proposed site the location of all wireless telecommunications towers and facilities and electrical utility high-tension wires.

(9) A list of names and phone numbers of whom to contact in an emergency. This list shall be kept current at all times.

(10) A list of any and all hazards that are within the secured area.

(11) When the proposed facility is to include a new tower, a plot plan, including all building uses within 300 feet, shall be required at a scale not less than one-inch equal to 100 feet. Aerial photos and/or renderings may augment the plot plan.

(C) Prior to the issuance of a zoning certificate, the applicant shall post a performance bond, the amount of which is determined by the Zoning Administrator. The bond shall be for the purpose of insuring that an abandoned, obsolete or destroyed wireless telecommunication facility shall be removed in compliance with sub-section 150.600.7. Any successor-in-interest or assignee of the applicant shall be required to additionally execute such bond.

(D) Prior to receiving approval for a new tower, the applicant shall demonstrate to the City that such facility is needed to meet the reasonable service requirements of the applicant. This assessment shall include consideration of alternative sites and the operational implications of such alternatives with respect to, but not limited to, height, opportunities for co-location, impact on residents and impact on service levels. The City may retain consultants to review the information, with the reasonable costs for such consultation being borne by the applicant.

(E) When the applicant requests a building permit, the following items shall be provided:

(1) A report prepared by a licensed professional engineer shall be included with the submitted application and shall contain the height, design and proof of compliance with nationally-accepted structural standards published by the American National Standards Institute/Electronic Industry Association section 222-F, as amended.

(2) A soil report complying with the standards of ANSI/EIA 222-F (Annex I: Geotechnical Investigations for Towers), as amended, shall be submitted to the Building Department to document and verify the design specifications of the foundation for the tower, and anchors for the guy wires, if used.

(3) Wireless telecommunications towers and antennas shall be designed to withstand sustained winds of at least 80 miles per hour.

(4) The ANSI/EIA section 222-F (Annex H: Commentary on Ice Design Criteria for Communications Structures) shall be consulted for ice load specifications.

(5) Elevations of existing and proposed structures showing width, depth, and height of the telecommunications facility as well as the specifications of the antenna and support structure shall be presented.

(6) The applicant shall present documentation that the tower is designed in accordance with the standards established in the sub-section 150.600.7, Standards Applicable to all Wireless Telecommunication Facilities.

(7) The applicant shall demonstrate that the proposed tower complies with all Federal Aviation Administration regulations concerning safety.

(8) The applicant shall demonstrate that the proposed tower complies with all Federal Communications Commission regulations addressing radio frequency emissions standards.

(9) All applicants shall be required to construct or locate on a base tower structure and structure foundation that is designed to be buildable up to 200 feet above the finished grade. Although the initial capacity may be for one antenna, the structure shall be designed to serve as a base for a reconstructed tower with the capacity for three (3) providers when constructed to the maximum allowable height. (Ord. 30515-05, passed 12-28-05)

150.600.10 Exemption of Certain City Property

Regardless of the provisions of this Section, a Wireless Telecommunication Facility may be permitted on any property owned or controlled by the City, excluding parks, and currently used for public works, safety or utility services, and such Facility shall be approved by the Plan Board according to the procedures set forth in Section 150.115, Procedures for Site Design Review. (Ord. 30515-05, passed 12-28-05; amend Ord. 30893-09, passed 7-15-09)

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Section 150.700
Off-Street Parking & Loading Regulations

§150.700.1 Purpose
§150.700.2 Parking and Loading Facilities Required
§150.700.3 Units of Measure
§150.700.4 Parking in Residential Districts
§150.700.5 Parking in Downtown Districts
§150.700.6 Parking for Commercial Uses in Commercial, Mixed-Use Hub and Transitional Districts
§150.700.7 Parking for Non-Commercial Uses in Commercial, Mixed-Use Hub and Transitional Districts
§150.700.8 Parking in Campus-Institutional and Airport Districts
§150.700.9 Parking in WO & OS Districts
§150.700.10 Parking in Industrial Districts
§150.700.11 Parking Requirement Reductions and Off-Site Parking
§150.700.12 Off-Street Loading Requirements
§150.700.13 Bicycle Parking Requirements
§150.700.14 Design Standards
§150.700.15 Improvement and Maintenance Standards
§150.700.16 Landscaping and Screening Requirements

150.700.1 Purpose

Off-street parking and loading regulations are established to achieve, among others, the following purposes:

(A) To provide for orderly growth and development in the City of Dayton.

(B) To allow flexibility in addressing vehicle parking and access issues.

(C) To relieve congestion so streets can be utilized more fully for movement of vehicular traffic.

(D) To promote safety and convenience for pedestrians by separating parking areas and associated car movements from the vicinity of pedestrian ways.

(E) To promote the general convenience, welfare and prosperity of residential, business, service and manufacturing developments which depend on off-street parking facilities.

(F) To ensure that off-street parking and access demands associated with new development will be met without adversely affecting other nearby land uses and surrounding neighborhoods. (Ord. 30515-05, passed 12-28-05)

150.700.2 Parking and Loading Facilities Required

Accessory off-street parking facilities, including access driveways, shall be provided on the same site as, and prior to the occupancy of, an approved or permitted building or use. Parking spaces reserved for any fleet vehicles shall not be used to meet the minimum space requirement for off-street parking and shall not interfere with the free circulation of vehicles within the off-street parking area. Further parking facilities shall be provided for the entire building or use, or shared among buildings or uses, in accordance with the regulations contained in this Section whenever:

(A) New Development. The parking and loading standards of this Section apply to all new buildings constructed and all new uses established in all zoning districts.

(B) Expansions and Substantial Modifications. The parking standards of this Section require the provision of additional parking spaces when an existing building or use is expanded or enlarged, whether through the addition of dwelling units, floor area, seating capacity, employees or other units of measurements used for establishing off-street parking such that:

(1) Additional off-street parking spaces to meet minimum ratios are required only to serve the enlarged or expanded area, not the entire structure or use; and

(2) If the number of parking spaces on a site at the time of expansion or substantial modification exceeds the maximum ratios of this Section, no additional spaces will be allowed.

(C) Change of Occupancy. Whenever a structure or parcel of land is occupied by a use that requires 150 percent, or more, parking spaces than the previous use, the owner of the new use shall provide at least eighty (80) percent of the parking spaces required for the new use on the site.

(D) Damage or Destruction of Existing Use. When a conforming or non-conforming structure or use that does not comply with current off-street parking and/or loading regulations is damaged and the cost of reconstruction does not exceed seventy-five (75) percent of the assessed value at the time such damage occurred, the building may be reconstructed with the same number of parking and loading spaces that existed at the time of damage or destruction. However, when the cost of reconstruction exceeds seventy-five (75) percent of the assessed value at the time such damage occurred, off-street parking and loading spaces shall be provided in the amount required for new construction.

(E) All off-street parking facilities, or those required as accessory to a use of a proposed or altered building, shall continue unobstructed in operation and shall not be reduced below the required size as long as the principal use remains, unless an equivalent number of spaces are provided for said use in another approved location or approved sharing arrangement.

(F) Adequate off-street parking facilities shall be provided to accommodate all motor vehicles of residents or employees, visitors, and customers, and the vehicles used in the conduct of any business enterprise, and no such required off-street parking shall be leased or rented to another property owner or tenant. Notwithstanding the above provision, in no

case shall the number of off-street parking spaces provided be less than the minimum prescribed in this Section.

(G) Bicycle parking may be substituted for up to 10 percent of required off-street vehicle parking spaces. For every five (5) non-required bicycle parking spaces that meet the bicycle parking requirements found in Section 150.700.13, the off-street vehicle parking requirement is reduced by one (1) space. Existing off-street parking spaces may be converted to take advantage of this provision.

(H) A bike sharing station may be substituted for required off-street vehicle parking spaces if all of the following requirements are met:

(1) The bike sharing station shall have a minimum of eleven (11) docks. A station of this size shall reduce the off-street vehicle parking space requirement by three (3) spaces. The provision of each additional four (4) docks and two (2) shared bicycles shall reduce the off-street vehicle parking space requirement by one (1) additional space. A maximum of 25 percent of required off-street vehicle parking spaces may be reduced through the provision of a bike sharing station.

(2) The bike sharing station shall be visible and accessible to the public.

(3) The bike sharing station shall be within a distance of another bike sharing station that is part of the same bike sharing system that is approved by the bike share operator.

(4) The bike sharing station shall be located on the site or adjacent sidewalk of the use for which the off-street vehicle parking spaces are required or on the site of a restricted parking lot that serves the use.

(5) The bike sharing station shall be shown on the site design plans submitted to the Zoning Administrator for the use.

(6) The property owner shall have an agreement for its bike sharing station with a bike sharing organization which serves the City of Dayton geography. The bike sharing station shall be part of the bike sharing system controlled by the bike sharing organization.

The property owner shall maintain the agreement with the bike sharing organization for as long as it wishes to substitute a bike sharing station for required off-street vehicle parking spaces. Should the bike sharing organization no longer wish to include the bike sharing station in its system or the bike sharing system is no longer in operation, the Zoning Administrator may require the property owner to meet the off-street vehicle parking space requirement.

Should the property owner no longer wish to include the bike sharing station in the bike sharing system, the Zoning Administrator may require the property owner to meet the off-street vehicle parking space requirement. (Ord. 30515-05, passed 12-28-05; amend Ord. 31574-17, passed 7-05-17)

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:

(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. (Ord. 30515-05, passed 12-28-05; amend Ord. 31490-16, passed 5-04-16)

150.700.4 Parking in Residential Districts

(A) The number of off-street parking spaces for each facility or use in residential districts shall be determined by application of the standards set forth in Schedule 150.700.4. For any commercial use conditionally permitted in a residential district, which is not listed in Schedule 150.700.4, the parking standards for commercial uses in eclectic and transitional districts set forth in Schedule 150.700.6 shall guide the provision of parking subject to approval by the Board of Zoning Appeals as part of the conditional use permitting process.

(B) Schedule 150.700.4 of Off-Street Parking Requirements in Residential Districts. (Ord. 30515-05, passed 12-28-05; amend Ord. 31028-10, passed 10-20-10; amend Ord. 31142-11, passed 12-21-11; amend Ord. 31283-13, passed 12-18-13; amend Ord. 31752-19, passed 9-4-19)

Schedule 150.700.4 Off-Street Parking Requirements in Residential Districts	
LAND USE	**MINIMUM REQUIREMENT**
(1) Residential	
(a) Single-Family Dwelling, Detached[1]	2 per dwelling unit
(b) Single-Family Dwelling, Detached Cluster[1]	2 per dwelling unit + 1 per 4 dwelling units for visitors
(c) Single-Family Dwelling, Attached[1]	2 per dwelling unit
(d) Two-Family Dwelling[1]	2 per dwelling unit
(e) Family Day Care Home, Child; 1-6 children (Type B)	1 drop-off space[2] + residential requirement
(f) Family Day Care Home, Child; 7-12 children (Type A)	1 drop-off space[2] + residential requirement
(g) Manufactured Home	2 per dwelling unit
(h) Mobile Home Park	2 per dwelling unit + 1 per 4 dwelling units for visitors
(i) Multi-Family Dwelling	1.5 per dwelling unit + 1 space per 10 dwelling units for visitors
(j) Residential Conversion	1 per dwelling unit
(2) Group Residential	
(a) Adult Care Facility; 3-5 persons	0.5 per employee + residential requirement
(b) Adult Care Facility; 6-16 persons	0.5 per employee + residential requirement
(c) Dormitory/Fraternity/Sorority	1 per occupant
(d) Residential Facility; 1-5 persons	0.5 per employee + residential requirement
(e) Residential Facility; 6-8 persons	0.5 per employee + residential requirement
(f) Residential Facility; 9-16 persons	0.5 per employee + residential requirement
(3) Residential/Work	
(a) Live-Work Unit	1.5 for first 1000 sf + .5 for each additional 500 sf
(4) Community Facility/ Institution	
(a) Cemetery chapel	0.75 per employee + 1 per 4 persons at design capacity
(b) Church/Religious Assembly	1 per 4 persons at design capacity + dwelling requirement
(c) Community Center	4 per 1,000 sf of floor area
(d) Congregate Care Facility/Nursing Home	1 per 2 employees + 1 per 4 beds
(e) Library	2 per 1,000 sf of floor area
(f) Protective Care Facility	4 per 1,000 sf of floor area
(g) Public Safety Facility	3 per vehicle based at the facility + 3 per 1.000 sf of floor area devoted to office use
(h) Utility Substation/Distribution Center, Indoor	1 space
(i) Utility Substation/Distribution Center, Outdoor	1 space
(5) Educational Facility	
(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
(6) Recreation/Open Space	
(a) Campground	1 per campsite + 1 per employee + half of the spaces for other use requirements
(b) Golf/Swim/Tennis Club	1 per 3 persons at maximum capacity for all facilities capable of simultaneous use
(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
(7) Office/Professional Services	
(a) Office, Medical/Dental/Health Services	3 per 1,000 sf of floor area
(b) Office, Administrative/Professional	3 per 1,000 sf of floor area
(8) Retail/Personal Services	
(a) Retail Establishment	3 per 1,000 sf of floor area
(b) Service Establishment, Personal	3.5 per 1,000 sf of floor area
(9) Lodging	
(a) Bed-and-Breakfast	1 per room/suite +residential requirement
(10) Other	

Schedule 150.700.4 Off-Street Parking Requirements in Residential Districts	
LAND USE	**MINIMUM REQUIREMENT**
(a) Agriculture, Livestock	None
(b) Day Care Center	1 per employee
(c) Telecommunication Facility	None
[1] See Section 150.305.5 (F), Additional Regulations for Vehicles. [2] Drop-off spaces for Family Day Care Home Type A and Type B shall only be required on roads defined as arterials or collectors by the City of Dayton Thoroughfare Plan.	

150.700.5 Parking in Downtown Districts

There are no minimum parking requirements for uses located in the central business (CBD) and urban business (UBD) zoning districts, with the exception of multi-family and single-family attached uses in the UBD. See sub-section 150.320.5 (A), Provision of Off-street Parking. (Ord. 30515-05, passed 12-28-05)

150.700.6 Parking for Commercial Uses in Commercial, Mixed-Use Hub and Transitional Districts

(A) The number of off-street parking spaces for commercial uses in Commercial, Mixed-Use Hub and Transitional (MGC, MNC, EGC, ENC, SGC, SNC, MX & T) Districts shall be determined by application of the standards set forth in Schedule 150.700.6.

(B) Instructions for Using Schedule 150.700.6. This Schedule contains the minimum and maximum parking requirements for commercial uses in MGC, MNC, EGC, ENC, SGC, SNC, MX and T districts. The "Land Use" column lists each commercial use by specific land use category, and is further delineated by development pattern (i.e., Mature, Eclectic and Suburban) districts. To determine the minimum and maximum parking requirements for a given use in Schedule 150.700.6:

(1) Locate the section of the schedule that identifies the appropriate development pattern district—i.e., **(1) Commercial Uses in Mature and Mixed-Use Hub Districts (MGC, MNC & MX)** or **(2) Commercial Uses in Eclectic and Transitional Districts (ENC, EGC & T)** or **(3) Commercial Uses in Suburban Districts (SNC & SGC)** and then;

(2) Find the desired land use.

(C) Schedule 150.700.6 of Off-Street Parking Requirements for Commercial Uses in Commercial, Mixed Use Hub and Transitional Districts. (Ord. 30515-05, passed 12-28-05; 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. 31752-19, passed 9-4-19)

Schedule 150.700.6 Off-Street Parking Requirements for Commercial Uses in Commercial, Mixed Use Hub and Transitional Districts		
LAND USE	**MINIMUM REQUIREMENT**	**MAXIMUM REQUIREMENT**
(1) Commercial Uses in Mature and Mixed Use Hub Districts (MNC, MGC & MX)		
(a) Residential/Work		
(i) Home Occupation	None	None
(ii) Live/Work	1.5 for first 1000 sf + 0.25 for each additional 1,000 sf	
(iii) Work/Live	1.5 for first 1000 sf + 0.25 for each additional 1,000 sf	
(b) Community Facilities/ Institutions		
(i) Assembly Hall/Auditorium	1 per 4 persons at design capacity	1 per 2 persons at design capacity

Schedule 150.700.6 Off-Street Parking Requirements for Commercial Uses in Commercial, Mixed Use Hub and Transitional Districts		
LAND USE	**MINIMUM REQUIREMENT**	**MAXIMUM REQUIREMENT**
(ii) Cultural Institution	1.5 per 1,000 sf of floor area	3 per 1,000 sf of floor area
(c) Recreation/Open Space		
(i) Health Club	2 per 1,000 sf of floor area	4 per 1,000 sf of floor area
(ii) Recreation Facility, Indoor	2.5 per 1,000 sf of floor area	5 per 1,000 sf of floor area
(iii) Theater, Indoor	1 per 4 persons at design capacity	1 per 2 persons at design capacity
(d) Office/Professional Services		
(i) Financial Institution/Bank	1.25 per 1,000 sf of floor area	2.5 per 1,000 sf of floor area
(ii) Medical/Dental/ Health Services Clinic	2 per 1,000 sf of floor area	4 per 1,000 sf of floor area
(iii) Office; Administrative/ Professional	2 per 1,000 sf of floor area	4 per 1,000 sf of floor area
(iv) Office; Medical/Dental/ Health Services	2 per 1,000 sf of floor area	4 per 1,000 sf of floor area
(v) Research/Development Facility, Laboratory	2 per 1,000 sf of floor area	4 per 1,000 sf of floor area
(e) Retail/Personal Services		
(i) Free-Standing Drive-thru Facility	1 per employee + stacking for 2 vehicles per station	1 per employee + stacking for 4 vehicles per station
(ii) Drive-thru Facility	Stacking for 2 vehicles per station + other use requirement	Stacking for 4 vehicles per station + other use requirement
(iii) Outdoor Display/Sales**, except motor vehicles**	1.5 per 1,000 sf of outdoor display/sales area	3 per 1,000 sf of outdoor display/sales area
(iv) Restaurant, Indoor Dining	7.5 per 1,000 sf of floor area	15 per 1,000 sf of floor area
(v) Restaurant, Outdoor Dining	7.5 per 1,000 sf of floor area. If part of a "Restaurant, Indoor Dining," requirement is zero.	15 per 1,000 sf of floor area
(vi) Retail Establishment	2 per 1,000 sf of floor area	4 per 1,000 sf of floor area
(vii) Service Establishment, Business	2 per 1,000 sf of floor area	4 per 1,000 sf of floor area
(viii) Service Establishment, Personal	2.5 per 1,000 sf of floor area	5 per 1,000 sf of floor area
(f) Mixed Use/Residential	For commercial use component, follow requirement for applicable commercial use(s). For residential component, 1.5 per dwelling unit + 1 per 10 dwelling units for visitors	
(g) Lodging		
(i) Bed-and-Breakfast	1 per room/suite + residential requirement	1.25 per room/suite + residential requirement
(ii) Hotel/Motel	1 per room/suite	1.25 per room/suite
(h) Motor Vehicle/ Transportation		
(i) Automobile Service Station	1.5 per service bay	3 per service bay
(ii) Equipment Rental/Sales/Service	1 per 1,000 sf of floor area	2 per 1,000 sf of floor area
(iii) Vehicle Fueling Station	1 per pump or fueling port + other use requirements	2 per pump or fueling port + other use requirements
(iv) Helicopter Landing Facility	1.5 per helicopter based at the facility	3 per helicopter based at the facility
(v) Motor Vehicle Body Shop	1.5 per service bay	3 per service bay
(vi) Motor Vehicle Repair	1.5 per service bay	3 per service bay
(2) Commercial Uses in Eclectic and Transitional Districts (ENC, EGC & T)		
(a) Residential/Work		
(i) Home Occupation	None	None
(ii) Live/Work	1.5 for first 1000 sf + 0.25 for each additional 1,000 sf	
(iii) Work/Live	1.5 for first 1000 sf + 0.25 for each additional 1,000 sf	
(b) Community Facilities/ Institutions		
(i) Assembly Hall/Auditorium	1 per 5 persons at design capacity	1 per 3 persons at design capacity
(ii) Cultural Institution	2 per 1,000 sf of floor area	3 per 1,000 sf of floor area
(c) Recreation/Open Space		
(i) Health Club	3 per 1,000 sf of floor area	5 per 1,000 sf of floor area
(ii) Recreation Facility, Indoor	3 per 1,000 sf of floor area	5 per 1,000 sf of floor area
(iii) Sports Facility	1 per 4 persons at design capacity	1 per 2 persons at design capacity
(iv) Theater, Drive-in/Outdoor	4 per 1,000 sf of viewing area	20 per 1,000 sf of viewing area
(v) Theater, Indoor	1 per 4 persons at design capacity	1 per 2.5 persons at design capacity
(d) Office/Professional Services		
(i) Financial Institution/Bank	2 per 1,000 sf of floor area	3 per 1,000 sf of floor area

Schedule 150.700.6 Off-Street Parking Requirements for Commercial Uses in Commercial, Mixed Use Hub and Transitional Districts		
LAND USE	**MINIMUM REQUIREMENT**	**MAXIMUM REQUIREMENT**
(ii) Medical/Dental/ Health Services Clinic	3 per 1,000 sf of floor area	4.5 per 1,000 sf of floor area
(iii) Office; Administrative/ Professional	3 per 1,000 sf of floor area	4 per 1,000 sf of floor area
(iv) Office; Medical/Dental/ Health Services	3 per 1,000 sf of floor area	4.5 per 1,000 sf of floor area
(e) Retail/Personal Services		
(i) Animal Hospital/Clinic	4 per 1,000 sf of floor area	6 per 1,000 sf of floor area
(ii) Free-Standing Drive-thru Facility	1 per employee + stacking for 3 vehicles per station	1 per employee + stacking for 4.5 vehicles per station
(iii) Drive-thru Facility	Stacking for 3 vehicles per station + other use requirement	Stacking for 4.5 vehicles per station + other use requirement
(iv) Funeral Home & Related Facilities	1 per 3 persons at design capacity	1 per 2 persons at design capacity
(v) Outdoor Display/Sales**, except motor vehicles**	2 per 1,000 sf of outdoor display/sales area	3 per 1,000 sf of outdoor display/sales area
(vi) Restaurant, Indoor Dining	10 per 1,000 sf of floor area	15 per 1,000 sf of floor area
(vii) Restaurant, Outdoor Dining	10 per 1,000 sf of floor area. If part of a "Restaurant, Indoor Dining," requirement is zero.	15 per 1,000 sf of floor area
(viii) Retail Establishment	3 per 1,000 sf of floor area	4.5 per 1,000 of floor area
(ix) Service Establishment, Business	3 per 1,000 sf of floor area	4.5 per 1,000 of floor area
(x) Service Establishment, Personal	3.5 per 1,000 sf of floor area	5.25 per 1,000 sf of floor area
(f) Mixed Use/Residential	For commercial use component, follow requirement for applicable commercial use(s). For residential component, 1.5 per dwelling unit + 1 per 10 dwelling units for visitors	
(g) Lodging		
(i) Bed-and-Breakfast	1 per room/suite + residential requirement	1.25 per room/suite + residential requirement
(ii) Hotel/Motel	1 per room/suite	1.5 per room/suite
(h) Motor Vehicle/ Transportation		
(i) Automobile Service Station	2.5 per service bay	4 per service bay
(ii) Car Wash	2 per wash bay	3 per wash bay
(iii) Equipment Rental/Sales/Service	2 per 1,000 sf of floor area	3 per 1,000 sf of floor area
(iv) Vehicle Fueling Station	1.5 per pump or fueling port + other use requirements	2.25 per pump or fueling port + other use requirements
(v) Motor Vehicle Body Shop	2.5 per service bay	4 per service bay
(vi) Motor Vehicle Repair	2.5 per service bay	4 per service bay
(vii) Motor Vehicle Sales/Rental	2 per 1,000 sf of floor area	None
(i) Other		
(i) Plant Nursery/Greenhouse	3 per 1,000 sf of floor area	4.5 per 1,000 sf of floor area
(3) Commercial Uses in Suburban Districts (SNC & SGC)		
(a) Community Facilities/ Institutions		
(i) Assembly Hall/Auditorium	1 per 6 persons at design capacity	1 per 4 persons at design capacity
(ii) Cultural Institution	3 per 1,000 sf of floor area	4 per 1,000 sf of floor area
(b) Recreation/Open Space		
(i) Health Club	4 per 1,000 sf of floor area	5 per 1,000 sf of floor area
(ii) Recreation Facility, Indoor	4 per 1,000 sf of floor area	5 per 1,000 sf of floor area
(iii) Recreation Facility, Outdoor	1 per 1,000 sf of recreation area	1 per 250 sf of recreation area
(iv) Sports Facility	1 per 3 persons at design capacity	1 per 2 persons at design capacity
(v) Theater, Drive-in/Outdoor	4 per 1,000 sf of viewing area	20 per 1,000 sf of viewing area
(vi) Theater, Indoor	1 per 3 persons at design capacity	1 per 2 persons at design capacity
(c) Office/Professional Services		
(i) Financial Institution/Bank	3 per 1,000 sf of floor area	3.75 per 1,000 sf of floor area
(ii) Medical/Dental/ Health Services Clinic	4 per 1,000 sf of floor area	5 per 1,000 sf of floor area
(iii) Office; Administrative/ Professional	1 per 250 per sf of floor area	1 per 200 sf of floor area
(iv) Office; Medical/Dental/ Health Services	4 per 1,000 sf of floor area	5 per 1,000 sf of floor area
(d) Retail/Personal Services		
(i) Animal Hospital/Clinic	4.75 per 1,000 sf of floor area	6 per 1,000 sf of floor area
(ii) Animal Boarding Facility, **with no** Outdoor Kennel/Run	1 per 1,000 sf of floor area	2 per 1,000 sf of floor area

Schedule 150.700.6 Off-Street Parking Requirements for Commercial Uses in Commercial, Mixed Use Hub and Transitional Districts		
LAND USE	**MINIMUM REQUIREMENT**	**MAXIMUM REQUIREMENT**
(iii) Animal Boarding Facility, **with** Outdoor Kennel/Run	1 per 1,000 sf of floor area	2 per 1,000 sf of floor area
(iv) Free-Standing Drive-thru Facility	1 per employee + stacking for 4 vehicles per station	1 per employee + stacking for 5 vehicles per station
(v) Drive-thru Facility	Stacking for 4 vehicles per station + other use requirement	Stacking for 5 vehicles per station + other use requirement
(vi) Funeral Home & Related Facilities	1 per 2 persons at design capacity	2 per 3 persons at design capacity
(vii) Outdoor Display/Sales**, except motor vehicles**	2.5 per 1,000 sf of outdoor display/sales area	3.25 per 1,000 sf of outdoor display/sales area
(viii) Restaurant, Indoor Dining	12 per 1,000 sf of floor area	15 per 1,000 sf of floor area
(ix) Restaurant, Outdoor Dining	12 per 1,000 sf of floor area**.** If part of a "Restaurant, Indoor Dining," requirement is zero.	15 per 1,000 sf of floor area
(x) Retail Establishment	4 per 1,000 sf of floor area	5 per 1,000 of floor area
(xi) Service Establishment, Business	4 per 1,000 sf of floor area	5 per 1,000 of floor area
(xii) Service Establishment, Personal	4 per 1,000 sf of floor area	5 per 1,000 sf of floor area
(e) Mixed Use/Residential	For commercial use component, follow requirement for applicable commercial use(s). For residential component, 1.5 per dwelling unit + 1 per 10 dwelling units for visitors	
(f) Lodging		
(i) Bed-and-Breakfast	1 per room/suite + residential requirement	1.5 per room/suite + residential requirement
(ii) Hotel/Motel	1.25 per room/suite	2 per room/suite
(g) Motor Vehicle/ Transportation		
(i) Automobile Service Station	3 per service bay	4 per service bay
(ii) Car Wash	2.5 per wash bay	4 per wash bay
(iii) Equipment Rental/Sales/Service	4 per 1,000 sf of floor area	4 per 1,000 sf of floor area
(iv) Vehicle Fueling Station	2 per pump or fueling port + other use requirements	2.5 per pump or fueling port + other use requirements
(v) Motor Vehicle Body Shop	3 per service bay	4 per service bay
(vi) Motor Vehicle Repair	3 per service bay	4 per service bay
(vii) Motor Vehicle Sales/Rental	2.5 per 1,000 sf of floor area	None
(h) Other		
(i) Plant Nursery/Greenhouse	4 per 1,000 sf of floor area	5 per 1,000 sf of floor area

150.700.7 Parking for Non-Commercial Uses in Commercial, Mixed-Use Hub and Transitional Districts

(A) The number of off-street parking spaces for each non-commercial facility or use in Commercial, Mixed-Use Hub and Transitional (MGC, MNC, EGC, ENC, SGC, SNC, MX & T) Districts shall be determined by application of the standards set forth in Schedule 150.700.7.

(B) Schedule 150.700.7 of Off-Street Parking Requirements for Non-Commercial Uses in Commercial, Mixed-Use Hub and Transitional Districts. (Ord. 30515-05, passed 12-28-05; amend Ord. 31028-10, passed 10-20-10; amend Ord. 31283-13, passed 12-18-13; amend Ord. 31490-16; passed 5-04-16; amend Ord. 31752-19, passed 9-4-19)

Schedule 150.700.7 Off-Street Parking Requirements for Non-Commercial Uses in Commercial, Mixed-Use Hub and Transitional Districts	
LAND USE	**MINIMUM REQUIREMENT**
(1) Residential	
(a) Dwelling Unit On or Above the First Floor	1 per dwelling unit

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) 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
(2) Mixed Use/Residential	For commercial use component, follow requirement for applicable commercial use(s). For residential component, 1.5 per dwelling unit + 1 per 10 dwelling units for visitors
(3) Group Residential	
(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
(4) Residential/Work	
(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
(5) Community Facility/ Institution	
(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
(6) Educational Facility	
(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
(7) Recreation/Open Space	
(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
(8) Motor Vehicle/Transportation	
(a) Railroad Station	None
(b) Transit Station	None
(9) Storage and Distribution	
(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

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
(10) Industrial	
(a) Manufacturing, Light	1 per 1,000 sf of floor area
(b) Microbottler	1 per 2,000 sf of floor area
(11) Other	
(a) Telecommunication Facility	None
(b) Mural	None

150.700.8 Parking in Campus-Institutional and Airport Districts

Parking demand studies are required to determine required parking facilities in Campus-Institutional (CI) and the Airport (AP) Districts. The results of a parking study shall only be considered valid upon review and approval from the Zoning Administrator.

(A) Campus-Institutional Districts. All schools, hospitals and other large institutional uses in CI Districts must prepare parking master plans that identify existing on-campus parking and the parking requirements of anticipated future expansions. Parking master plans must be updated and coordinated with the general development plan required in Section 150.335, Campus-Institutional District.

(B) Airport Districts. All parking areas in the Airport AP District shall be in accordance with the Dayton International Airport Master Plan and be in compliance with the applicable Federal Aviation Administration regulations. (Ord. 30515-05, passed 12-28-05)

150.700.9 Parking in the Well Head Operation and the Park/Open Space Districts

Specific requirements shall be determined by the Zoning Administrator based on requirements for similar uses, location of proposed use, number of employees on largest shift, surrounding land uses, expected demand and traffic generated by the proposed use, and appropriate traffic engineering and planning criteria and information. Determination of requirements may be appealed to the Board of Zoning Appeals. (Ord. 30515-05, passed 12-28-05)

150.700.10 Parking in Industrial Districts

(A) The number of off-street parking spaces for each facility or use in industrial districts shall be determined by application of the standards set forth in Schedule 150.700.10. For any use permitted in an industrial district that is not listed in Schedule 150.700.10, either the parking standards for commercial uses in mature districts set forth in Schedule~~s~~ 150.700.6 shall apply or the parking standards for non-commercial uses in Schedule 150.700.7 shall apply.

(B) Schedule 150.700.10 of Off-Street Parking Requirements in Industrial Districts. (Ord. 30515-05, passed 12-28-05; amend Ord. 30643-07, passed 3-21-07; amend Ord. 31142-11, passed 12-21-11; amend Ord. 31283-13, passed 12-18-13)

Schedule 150.700.10 Off-Street Parking Requirements in Industrial Districts	
LAND USE	**MINIMUM REQUIREMENT**
(1) Community Facility/ Institution	
(a) Emergency Housing	3 per 1,000 sf of floor area
(b) Protective Care Facility	4 per 1,000 sf of floor area
(c) Transitional Housing	3 per 1,000 sf of floor area
(d) Utility Substation/Distribution Center, Indoor	None
(e) Utility Substation/Distribution Center, Outdoor	None
(2) Educational Facility	
(a) Day Care Center, Adult or Child	1 per employee + 1 per 6 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
(3) Recreation/Open Space	
(a) Model Airplane Flying Facility	1 per 3 persons at maximum capacity for all facilities capable of simultaneous use
(b) Recreation Facility, Outdoor	1 per 1,000 sf of recreation area
(4) Retail/Personal Services	
(a) Animal Hospital/Clinic	4 per 1,000 sf of floor area
(b) Animal Boarding Facility, with or without an outside run/kennel	1 per 1,000 sf of floor area
(5) Motor Vehicle/ Transportation	
(a) Car Wash	2 per wash bay
(b) Motor Vehicle Sales/Rental (including boats)	2 per 1,000 sf of floor area
(c) Railroad Yard	0.75 per employee
(d) Transit Garage	0.75 per employee
(e) Transit Station	0.5 per employee
(f) Transit Turnaround	None
(g) Trucking/Motor Freight Terminal	1 per 1,000 sf of floor area
(h) Vehicle Fueling Station	2 per pump or fueling port + other use requirements
(6) Industrial	
(a) Construction & Demolition Waste Facility	0.75 per employee
(b) Crematorium/Incinerator	0.75 per employee
(c) Junkyard	1 per 10,000 sf of lot area
(d) Manufacturing, Heavy	0.5 per 1,000 sf of floor area
(e) Manufacturing, Light	1 per 1,000 sf of floor area
(f) Microbottler	1 per 2,000 sf of floor area
(g) Recycling Collection Facility, Large or Small	None
(h) Recycling Processing Facility, Indoor or Outdoor	0.75 per employee
(i) Sand & Gravel Operations	None
(j) Sewage/Liquid Waste Treatment Facility	None
(k) Sanitary Waste Facility	None
(l) Water Supply/Treatment Facility	None
(m) All Other Industrial Uses	1 space per 400 sf of floor area
(7) Other	
(a) Adult Entertainment	2 per 3 persons at design capacity
(b) Plant Nursery/Greenhouse	1 per 1,000 sf of floor area
(c) Telecommunication Facility	None

150.700.11 Parking Requirement Reductions and Off-Site Parking

(A) Shared Parking. Because various uses have different hours of peak parking needs, two or more uses may share parking facilities without providing the minimum number of on-site required spaces for each use when all of the following conditions are met.

(1) The minimum required number of parking spaces for the combined uses may be reduced by twenty (20) percent for shared parking when the hours of operation overlap. Residential uses shall not be allowed to share parking facilities.

(2) When the hours of operation do not overlap, the parking facility to be shared shall contain at least the number of spaces required for the use necessitating the greatest minimum quantity of parking spaces.

(3) The parking facility to be shared shall be owned by the owner of one of the uses or leased for a minimum one (1) year term or through a permanent easement by the owner of the uses being served. If the term of the use is limited by a conditional use permit, then the term of the lease agreement may be limited accordingly. At the expiration of the term of a lease, the owner must replace the off-site parking or end the use which required the parking.

(4) No changes shall be made to the shared parking facility that would reduce the parking provided for the uses, unless the owner of one of the uses makes other arrangements to provide parking. No such changes shall be made without prior approval.

(5) Parking spaces to be shared shall not be reserved for a specific person, individual or use on a twenty-four-hour basis.

(6) Handicap parking spaces may not be shared unless the uses that are to share the spaces are adjacent to the handicap spaces and no inconvenience to the users of such spaces would be created.

(7) Loading spaces may not be shared.

(8) Any proposed change in the use of a structure that shares a parking facility will require proof that adequate parking is available.

(B) Off-Site Parking. All off-street parking spaces shall be located on the same lot as the building or use, except under all of the following conditions:

(1) The use must supply at least fifty (50) percent of its required parking on-site. The Zoning Administrator, upon review of the following criteria, may grant an exception to this requirement:

(a) Proximity of the proposed parking area to the use served;

(b) Ease and safety of access between the proposed parking area and the use served;

(c) Use to be served by the proposed off-site parking; and

(d) The hours of operation of the use to be served by the proposed off-site parking.

(2) The off-site parking spaces shall be within a walking distance from a building entrance or use. "Walking distance" shall mean within 800 feet as measured in a straight line from a building entrance or use to the nearest parking space. If the pedestrian access is to cross an arterial street, appropriate safety measures shall be present to help the pedestrian cross the street. In any case, safe and convenient pedestrian access, such as a sidewalk or path, shall exist or be provided from the structure or use to the parking lot.

(3) Contiguous lots providing off-street parking for more than one use shall provide sufficient spaces to comply with the parking requirements for all uses served.

(4) The off-site parking lot may be located in a different zoning district than the use it serves if a parking facility is permitted by right or by special use permit in the different zoning district.

(5) The off-site parking facility shall be owned by the owner of one of the uses or leased for a minimum one (1) year term or through a permanent easement by the owner of the uses being served. If the term of the use is limited by a special use permit, then the term of the lease agreement may be limited accordingly. At the expiration of the term of a lease, the owner shall renew the lease, shall replace the off-site parking, or end the use which required the parking.

(6) No changes shall be made to the off-site parking lot which would reduce the parking provided for the use, unless other arrangements to provide parking are made by the owner of the use.

(7) All required handicapped spaces shall be located on the same site as the use.

(8) An existing non-conforming parking lot to be used under this Section as off-site parking must be landscaped, paved and striped according to the standards of this Section. (Ord. 30515-05, passed 12-28-05; amend Ord. 31142-11, passed 12-21-11; amend Ord. 31283-13, passed 12-18-13)

150.700.12 Off-Street Loading Requirements

Loading and unloading facilities shall be provided prior to occupancy of every non-residential building hereafter erected, altered, or to be occupied by a new user, and shall be maintained as long as such building is occupied or unless equivalent facilities are provided in conformance with the regulations of this chapter as well as the following:

(A) All off-street loading spaces shall be located on the same lot as the structure or use.

(B) No loading space or berth shall be located within the front yard in any zoning district.

(C) No off-street loading area shall be used to meet the minimum space requirement for off-street parking, and no loading area shall interfere with the free circulation within the off-street parking area.

(D) All off-street loading areas shall have safe and convenient access to a street. If any such areas are contiguous to a street, the street side of such areas shall be curbed.

(E) All off-street loading areas, including aisles and driveways, shall be constructed and maintained with a dustless surface in accordance with applicable construction standards.

(F) All off-street loading areas shall be screened in accordance with sub-section 150.800.10, Screening of Accessory Uses.

(G) When a building includes a combination of uses as set forth in this section, the required number of loading spaces will be the sum of the required loading spaces for each use. In no case shall the development be required to provide in excess of 5 loading spaces.

(H) Authority of the Zoning Administrator. The Zoning Administrator may waive loading/unloading requirements based on the character of the proposed use or the impracticality of adding loading/unloading docks to existing buildings.

(I) Classification of Loading Spaces. A loading space shall consist of a rectangular area of one or more of the following classes:

(1) Class A. An area at least fourteen feet by fifty-five feet having a vertical clearance of fifteen feet or more, plus adequate area for ingress and egress.

(2) Class B. An area at least twelve feet by thirty feet having a vertical clearance of fifteen feet or more, plus adequate area for ingress and egress.

(J) Minimum Loading Spaces Required. Every non-residential building shall provide a loading space pursuant to the provisions in Schedule 150.700.12. (Ord. 30515-05, passed 12-28-05)

Schedule 150.700.12
Minimum Loading Spaces Required

Activity or Use	Number of Spaces by Class	
(1) **Industrial, manufacturing and warehousing:**		
(a) 15,000 square feet or less	1	Class B space
(b) Greater than 15,000 square feet	2	Class A spaces
(2) **Office uses:**		
(a) Less than 4,000 square feet	None	
(b) Greater than 4,000 square feet	1	Class B space
(3) **Retail uses:**		
(a) Less than 2,000 square feet	None	
(b) 2,000 square feet to 10,000 square feet	1	Class B space
(c) 10,001 square feet to 40,000 square feet	1	Class A space
(d) 40,001 square feet or more	2	Class A spaces
(4) **All other nonresidential uses:**		
(a) Less than 2,000 square feet	None	
(b) 2,000 square feet or more	1	Class B space

150.700.13 Bicycle Parking Requirements

(A) Facilities for the off-street parking of bicycles shall be provided according to Schedule 150.700.13.

Schedule 150.700.13 Bicycle Parking	
Use	Bicycle Spaces Required
Multi-Family Residential Dwellings with more than 20 dwelling units	25% of the total number of bedrooms
Nonresidential Uses	A minimum of two (2) spaces per use, plus one space per 15 required off-street parking spaces.

(B) For each required bicycle parking space, a permanently anchored object shall be provided which supports the bicycle frame and can enable a user to secure the frame and one wheel of a bicycle with a six (6) foot cable and lock. The bicycle rack shall be conveniently located to the main entrance of the use it serves as determined by the Zoning Administrator. If such a location is within the public right-of-way the approval of the Director of Public Works is required. Acceptable bicycle parking facilities include the following:

(1) Permanently anchored freestanding bicycle rack, such as an Inverted U rack, Inverted U Series, Post and Ring rack, or other acceptable bicycle parking rack as determined by the Zoning Administrator provided it meets the requirements noted above.

(2) Enclosed bicycle lockers large enough to accommodate a bicycle with a three- (3) foot handlebar width, a height of four (4) feet from the bottom of the wheel to the top of the handlebar, and a length of six (6) feet from the front of the front wheel to the back of the rear wheel.

(3) A fenced, covered, locked or guarded bicycle storage area. Such area shall be large enough that each of the required bicycle parking spaces can accommodate a bicycle with a three- (3) foot handlebar width, a height of four (4) feet from the bottom of the wheel to the top of the handlebar, and a length of six (6) feet from the front of the front wheel to the back of the rear wheel. (Ord. 30515-05, passed 12-28-05; amend Ord. 31142-11, passed 12-21-11)

150.700.14 Design Standards

(A) Paving and Drainage. Off-street parking and loading spaces, parking lots, aisles and driveways shall be paved with concrete, bituminous asphalt or other approved dust-free material other than gravel or loose fill as required by any applicable engineering standards. If the applicant proposes to use other dust-free materials, these materials shall be approved, prior to installation, by the Plan Board, Zoning Administrator, or the Board of Zoning Appeals, whichever is applicable according to the procedures in Section150.115.

(1) Grading and storm drainage shall be approved by the Department of Public Works.

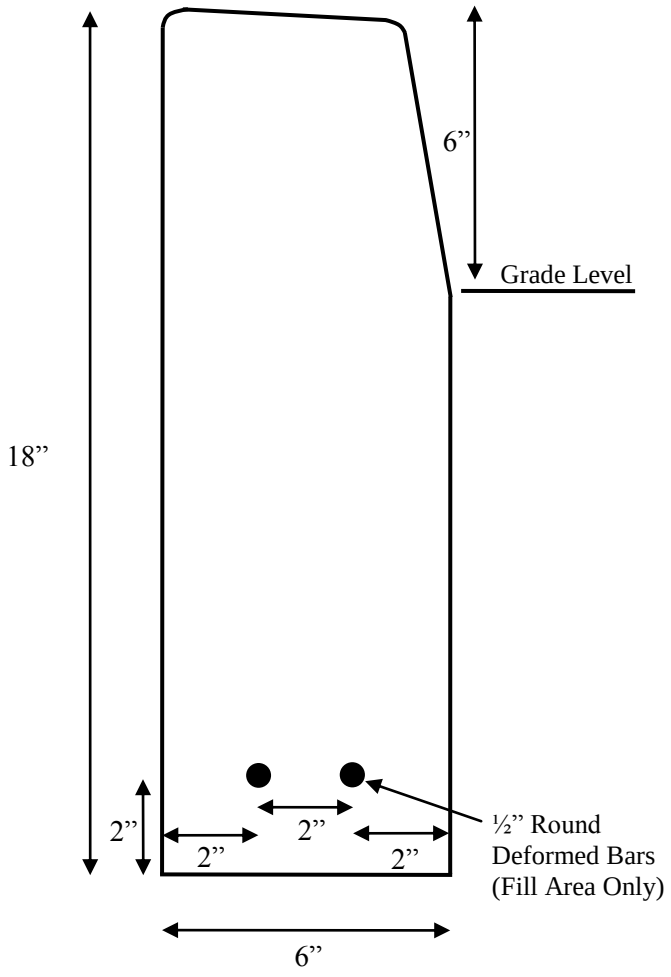
(2) All off-street parking, loading and other vehicle circulation areas shall be graded and continuously maintained and designed to preclude free flow of storm water cross or onto adjacent lots, properties or streets, and ponding and icy conditions.

(3) Eighteen (18) inch, concrete curbs, poured in place, shall be required as part of the overall design for all the parking lot perimeter, landscape island perimeter,

and driveway perimeter leading to the parking lot. See Illustration 150.700.14(A) Concrete Barrier Curb.

(4) In all Residential Districts, all parking areas shall be surfaced or paved with concrete, asphalt concrete, or pavers, as approved by the Zoning Administrator.

Illustration 150.700.14 (A)
Concrete Barrier Curb



(B) Design Exceptions. Exceptions to the paving and drainage requirements in sub-section 150.700.14 (A) (1, 2, and 3) above may be granted by the Zoning Administrator. To qualify, exceptions shall meet the following criteria:

(1) Projects shall obtain a design exception from the Department of Public Works.

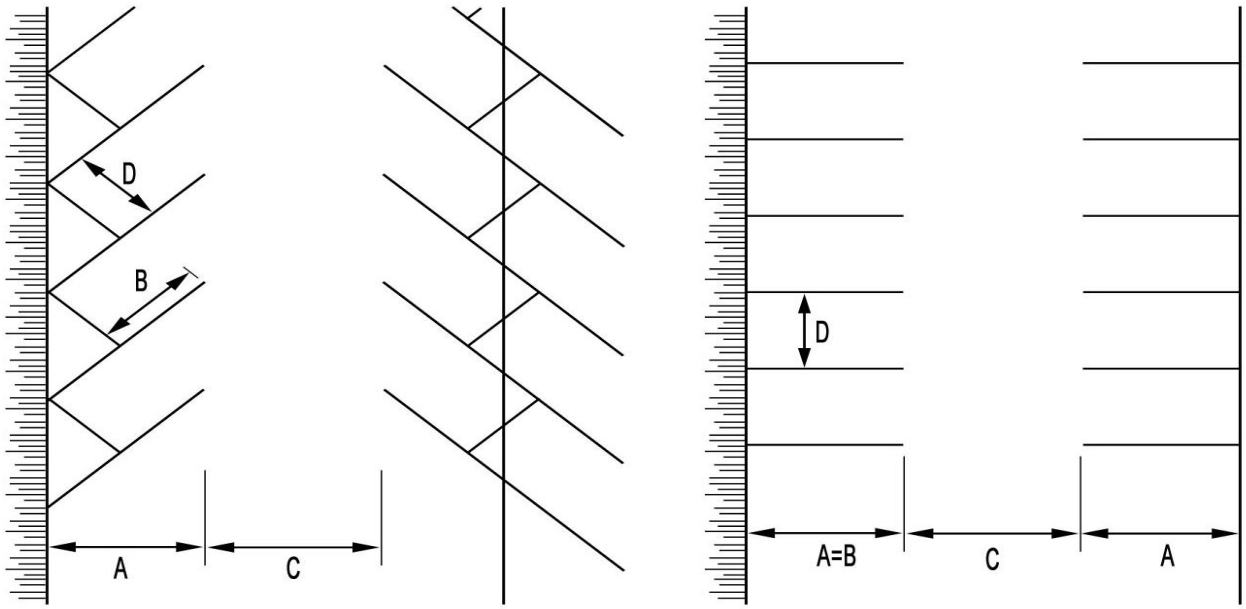
(2) The Zoning Administrator shall determine that the design meets the purpose and intent of the Zoning Code and this Section as stated in sub-sections 150.100.3 and 150.700.1.

(C) Parking Dimensions.

(1) Perpendicular and Angular Parking Spaces. All new or altered off-street parking areas shall comply with the dimensions set forth in Schedule 150.700.14. The number, location and dimension of spaces to be reserved for the disabled shall comply with the federal regulations promulgated pursuant to the Americans with Disabilities Act.

(2) Schedule 150.700.14 of Dimensions for Perpendicular and Angular Parking Spaces.

Schedule 150.700.14 Dimensions for Perpendicular and Angular Parking Spaces				
		Length (in feet) by Angle		
		45	**60**	**90**
A	Stall Depth: to Wall	18.7	19.8	18
B	Stall Depth: Parallel to Vehicle	18	18	18
C	Aisle Width	13.5	18.5	24
D	Stall Width Perpendicular to Vehicle	8.5	8.5	9
E	Module Width: Wall to Wall	50.9	58.1	60



(3) Parallel Parking Spaces. All parallel parking spaces shall be twenty-two (22) feet in length and ten (10) feet in width.

(4) When parking spaces are located adjacent to a building, property line, or similar circumstances, a wider than normal stall may be required, for example an eleven (11) foot stall versus a nine (9) foot stall.

(5) Turnarounds. When perpendicular parking areas terminate in a dead end, a paved area for vehicles to back into shall be provided adjacent to the last parking space.

(D) Striping. To facilitate movement and help maintain an orderly parking arrangement, all parking spaces and aisles shall be clearly striped with a minimum width of four (4) inches. The width of the parking spaces shall me computed from the centers of the striping. When a parking space is designated for use by persons with disabilities, it shall be clearly marked and signed and otherwise be consistent with the requirements of sub-section 150.700.14 (A) above. Unless otherwise stated, all parking spaces shall be striped or otherwise permanently marked to designate the space.

(1) Parking areas at automobile sales and repair establishments do not require lines or striping.

(2) Parking areas at bed and breakfasts do not require lines or striping.

(3) Temporary parking areas do not require permanent striping.

(E) Parking Location Adjacent to Alleys. All parking areas shall be setback a minimum of four (4) feet from the alley right-of-way line and comply with the requirements in Section 150.435.

(F) Illumination.

(1) Illumination of parking and loading areas shall be required when the parking and loading area contains twenty-five (25) or more parking spaces, unless the Plan Board, the Board of Zoning Appeals, or the Zoning Administrator, whichever is applicable pursuant to the procedures in Section 150.115, grants an exception due to the level of illumination emanating from alternative sources. Required lighting shall not emanate from a source that is not controlled by the property owner.

(2) Lights and light fixtures used to illuminate any parking or loading area shall be flat lenses and arranged to direct and reflect light away from any adjacent residential property and public right-of-way, and away from the sky above the light fixture. Parking areas and loading spaces shall comply with the illumination standards of sub-section 150.420.3, Exterior Lighting Standards. (Ord. 30515-05, passed 12-28-05; 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. 31142-11, passed 12-21-11)

150.700.15 Improvement and Maintenance Standards

(A) Improvement. Subject to the design and construction standards set forth in sub-section 150.700.14, Design Standards.

(B) Maintenance. Parking lots and loading areas shall be maintained in a safe operating condition so as to not create a hazard or nuisance. All materials used in the construction of paving, light fixtures, retaining walls, fences, curbs and benches shall be continuously maintained and kept free of debris and hazards. (Ord. 30515-05, passed 12-28-05)

150.700.16 Landscaping and Screening Requirements

Screening and landscaping of the interior and perimeter of all parking areas shall comply with the requirements set forth in Section 150.800, Landscape and Screening Regulations. (Ord. 30515-05, passed 12-28-05)

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Section 150.800
Landscaping & Screening Regulations

§150.800.1 Purpose
§150.800.2 Applicability of Regulations
§150.800.3 Reserved
§150.800.4 General Requirements and Maintenance of Yards
§150.800.5 Landscaping Requirements Along Street Frontages
§150.800.6 Maintenance & Removal of Trees Within the Street Right-of-Way
§150.800.7 Quality of Plant Materials and Tree Species Not Permitted
§150.800.8 Screening
§150.800.9 Screening and Landscaping of Parking Lots
§150.800.10 Screening of Accessory Uses
§150.800.11 Approval Process for Required Landscaping, Fences, and Walls
§150.800.12 Flexibility

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:

(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. (Ord. 30515-05, passed 12-28-05; amend Ord. 31490-16, passed 5-04-16)

150.800.2 Applicability of Regulations

(A) The requirements of this Section shall apply to any development for which a site design plan is required by Section 150.115, Site Design Review Procedures.

(B) No building, structure or vehicular use area shall be constructed or expanded unless the minimum landscaping and screening required by this Section is provided to the extent of the alteration or expansion, but not for the entire property of which the alteration or

expansion is a part unless the alteration or expansion is substantial. An alteration or expansion to an existing property is substantial when:

(1) In the case of a building or structure that does not involve additional land, the square footage of the expansion exceeds twenty-five percent (25%) of the gross floor area of the existing building.

(2) In the case where additional land is involved, the additional land or the expanded square footage of a structure exceeds twenty-five percent (25%) of the existing site or structure.

(3) Land as used herein includes land for open space, parking or building.

(C) Single-family and two-family residences shall be exempt from sub-section 150.800.11, Approval Process for Required Landscaping, Fences, and Walls. (Ord. 30515-05, passed 12-28-05)

150.800.3 Reserved

150.800.4 General Requirements and Maintenance of Yards

Required yards and all other portions of the lot not covered by permitted structures shall be landscaped with grass, trees, shrubbery and/or other appropriate ground cover or landscaping material, which at all times shall be maintained in good and healthy condition.

(A) Each lot shall maintain open space with landscaping in compliance with the minimum percentage of the area of the lot specified in the district regulations.

(B) All screening shall be free of advertising or other signs, except for directional signs and other signs for the efficient flow of vehicles.

(C) Trees and shrubs shall be arranged to create varied and attractive views and plant material should provide a variety of color displayed throughout the year.

(D) The required landscaping shall be maintained in healthy condition by the current owner and replaced when necessary. Replacement material shall conform to the original intent of the landscape plan.

(E) Vehicle parking shall not be permitted in landscaped areas.

(F) Except single-family and two-family uses, all parcels shall provide a permanent hose bib that is accessible to all landscaped areas either on an exterior wall or freestanding. (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 street frontages in compliance with the following:

(A) Species and Location Requirements.

(1) Trees shall be limited to species characterized as hardy, long-lived shade trees. Tree species that shall not be permitted are listed in Schedule 150.800.7. The

Director of Public Works may add additional tree species 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. (Ord. 30515-05, passed 12-28-05; amend Ord. 31142-11, passed 12-21-11; amend Ord. 31490-16, passed 5-04-16; amend Ord. 31738-19, passed 5-29-19)

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

(A) Maintenance. The owner shall be required to maintain trees within street rights-of-way for two (2) years after the trees are planted and to replace any tree that dies within such two-year guarantee period.

(1) Upon completion of the planting of trees within the street rights-of-way, the landscape contractor shall contact the Zoning Administrator.

(2) The two-year guarantee period shall begin after the approval from the Zoning Administrator.

(3) A final inspection shall be made at the end of the guarantee period.

(a) The owner shall notify the Zoning Administrator within five (5) business days of the end of the guarantee period to schedule the final inspection.

(b) All trees not exhibiting a healthy, vigorous growing condition, as determined by the City's inspection, shall be replaced at the expense of the owner or builder.

(c) If the City determines that replacement of a tree is required, such replacement shall occur within thirty (30) days of the date the City's inspection report is submitted to the owner.

(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. (Ord. 30515-05, passed 12-28-05; amend Ord. 31142-11, passed 12-21-11; amend Ord. 31490-16, passed 5-04-16)

150.800.7 Quality of Plant Materials and Tree Species Not Permitted

(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 – Tree Species Not Permitted Along Public Street Frontages

The trees in Schedule 150.800.7 shall not be permitted. The Director of Public Works may add additional tree species to those listed in Section 150.800.7.

Schedule 150.800.7 Tree Species* Not Permitted Along Public Street Frontages	
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 add additional tree species to those listed in this Schedule.	

(Ord. 30515-05, passed 12-28-05; amend Ord. 30643-07, passed 3-21-07; amend Ord. 31490-16, passed 5-04-16; amend Ord. 31738-19, passed 5-29-19)

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.

(A) Required for the Following: Screening shall be required according to the following:

(1) When a lot in any non-residential district abuts a residential district;

(2) When a lot in a Multi-family Zoning District or a Manufactured Home District abuts a Single Family Residential District;

(3) When a lot in a residential district is devoted to a non-residential conditional use; and

(4) When required by the Conditional Use and Specific Use Regulations in Section 150.500.

(5) When a public right-of-way separates zones of different intensities, the following criteria shall apply, regardless of whether the zoning line is on one side or the other or the center of the public right of way:

(a) If the public right-of-way is an alley, screening shall be provided on the property with the higher intensity use.

(b) If the public right-of-way is a local, collector or arterial street, screening shall be provided on any side or rear yard of the higher intensity use which abuts the right-of-way. However, the screening shall not be required on the front of the higher intensity use where the front abuts the public right-of-way.

(B) Screening Requirements When Abutting an Adjacent Jurisdiction. When property lines abut an adjacent jurisdiction, the Plan Board, the Board of Zoning Appeals, or the Zoning

Administrator, whichever is applicable according to the procedures in Section 150.115, shall determine the specific screening along that property line after consideration of the zoning designation and/or land use of the adjacent property. Requirements shall not exceed those that would be required for similarly situated/zoned property within the City of Dayton.

(C) Modifications to Screening Requirements. Modifications to these standards may be granted by the Zoning Administrator, Plan Board or Board of Zoning Appeals if any of the following circumstances exist at the proposed building site or surrounding properties:

(1) Natural land characteristics such as topography or existing vegetation on the proposed building site would achieve the same intent as this Section.

(2) Innovative landscaping or architectural design is employed on the building site to achieve an equivalent screening and buffering effect.

(3) The required screening and landscaping would be ineffective at maturity due to the proposed topography of the site, and/or the location of the improvements on the site.

(4) The topography of adjacent and surrounding sites is such as to render required screening ineffective at maturity.

(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(C), Modifications to Screening Requirements.

(b) Non-living opaque structures such as a solid masonry wall that is compatible with the principal structure or a solid wood fence together with a landscaped area. For solid fences, fences shall be designed, constructed, and finished so that the supporting members face the property owner of the fence and they shall be maintained in good condition, be structurally sound, and attractively finished at all times.

(c) For principal structures that existed before August 1, 2006, the solid masonry wall of the structure shall be considered an adequate screening material.

(d) An ornamental fence with openings through which light and air may pass together with a landscaped area that includes dense vegetative plantings. A chain link fence shall not be permitted.

(e) A landscaped mound or berm, with no more than a 3:1 slope.

(2) Location. The location of the wall, fence, or vegetation shall be placed within the setback to maximize the screening effect, as determined by the Zoning Administrator, Board of Zoning Appeals, or the Plan Board.

(3) Installation of Screening. Screening shall be continuous and in place at the time of occupancy. If vehicular or pedestrian access through the screen is necessary, the screening function shall be preserved.

(4) Height of Screening. The height of screening shall be in accordance with the following:

(a) Visual screening by walls, fences, or mounds in combination with vegetation, fences or walls shall be a minimum of six (6) feet high measured from the natural grade, except as set forth in subsection (b) below.

(b) Whenever the required screening is located within a front yard or within a site triangle per Section 150.410, or within 10 ft. of a driveway entrance, the required screening shall not exceed a height of three (3) feet.

(c) When used alone, vegetation shall be a minimum of six (6) feet high, as measured from the natural grade, in order to accomplish the desired screening effect. The required height shall be achieved no later than three (3) years after the initial installation. (Ord. 30515-05, passed 12-28-05; amend Ord. 30762-08, passed 7-16-08; amend Ord. 31142-11, passed 12-21-11; amend Ord. 31490-16, passed 5-04-16)

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:

(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;

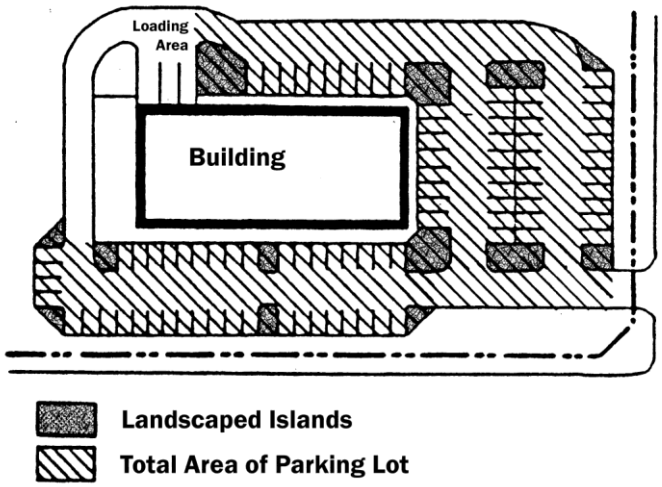
(c) Within the landscaped islands, one (1) shade tree shall be provided for every ten (10) parking spaces. Each tree, at the time of installation, shall have a minimum caliper of 2.5 inches and a clear trunk height of at least six (6) feet.

(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



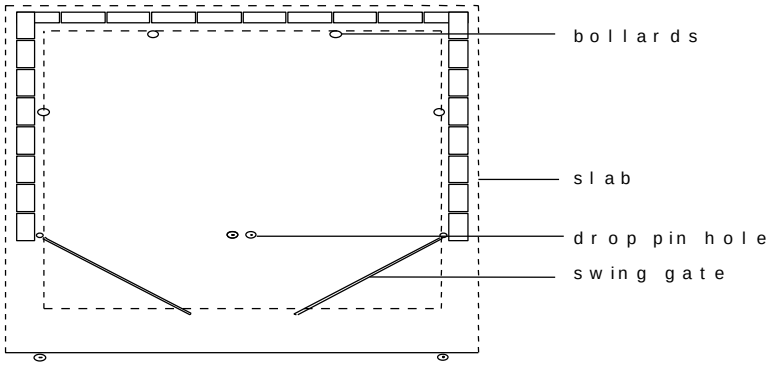
(B) Screening. When surface off-street parking consisting of five (5) or more spaces is adjacent to a residential district or located across a dedicated street or alley from a residential district, effective screening shall be provided to protect the privacy of the adjoining residential uses. This screening shall be a combination of ornamental fencing or a brick wall and/or landscaping such that a solid, continuous visual screen is provided. When landscaping is solely utilized or utilized in combination with ornamental fencing, trees and/or shrubs shall have a minimum height of three (3) feet and be adequately spaced to form a solid, continuous visual screen within three (3) years after the initial installation. (Ord. 30515-05, passed 12-28-05; amend Ord. 31142-11, passed 12-21-11; amend Ord. 31490-16, passed 5-04-16)

150.800.10 Screening of Accessory Uses

For all uses other than single and two-family uses, screening of accessory uses shall be provided according to the following:

(A) Waste receptacles shall be screened on four (4) sides by an opaque fence or wall and gate. Such screening shall be constructed in the manner shown in Figure 2 below:

Figure 2
Waste Receptacle Enclosure



(B) Loading and service areas shall be screened along any perimeter that can be seen from a street right-of-way or an adjoining residential use according to the screening requirements in sub-section 150.800.8 (D).

(C) Permitted accessory outdoor storage of goods, supplies, equipment or vehicles used in the operation of an establishment, where permitted, shall be screened as required in the regulations of the applicable zoning district.

(D) Permitted accessory loading areas, service areas, outdoor storage of goods, supplies, equipment or vehicles used in the operation of an establishment, where permitted, shall be enclosed with a solid fence or wall, including solid gates. The wall or fence shall have a height tall enough to conceal all operations and materials therein from the view of any observer standing at the grade level of an abutting lot or a public street. Screening shall be a minimum of six (6) feet in height placed so as to be effective screening from any adjacent streets and any adjoining properties.

(E) Ground mounted mechanical equipment shall be screened with evergreen shrubbery so that within two (2) years the equipment is completely obscured from view. (Ord. 30515-05, passed 12-28-05)

150.800.11 Approval Process for Required Landscaping, Fences, and Walls

(A) The location of proposed landscaping, fences or walls required to fulfill the standards and criteria of this Section shall be reviewed and approved as part of a site design plan pursuant to Section 150.115, Site Design Review Procedures.

(B) However, when a fence, wall or landscaping is proposed at a separate time from any other development for new construction, additions or site renovation, a fence; wall; or landscaping may be approved administratively by the Zoning Administrator, according to the procedures for Minor Site Plan Review in Section 150.115, when the Zoning Administrator determines that the proposal:

(1) Complies with the requirements of this Section;

(2) Is consistent with any previously approved plan;

(3) Is compatible with the current site development if there is no approved plan; and

(4) Will have a minimal adverse impact to the surrounding areas. (Ord. 30515-05, passed 12-28-05)

150.800.12 Flexibility

The standards and criteria in this Section establish the City's objectives and levels of landscaping intensity expected. However, in applying these standards during the site design plan review, the Plan Board, Board of Zoning Appeals, or Zoning Administrator may exercise discretion and flexibility with respect to the placement and arrangement of the required elements to assure that the objectives of the district and the proposed development or redevelopment are best satisfied. (Ord. 30515-05, passed 12-28-05; amend Ord. 30762-08, passed 7-16-08)

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Section 150.900
Sign Regulations

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150.900.1 Purposes

Because signs can obstruct views, distract motorists, and pose other problems that legitimately call for regulation, the purpose of this Section is to promote the public health, safety and welfare by establishing standards and criteria for the construction, installation, maintenance and operation of signs in the City of Dayton. It is the further purpose to provide for the removal of those signs that do not comply with these regulations. More specifically, this Section regulates the size, color, illumination, movement, materials, location, height, and condition of all signs in order to achieve, among others, the following purposes:

(A) Enhance and protect the physical appearance of the City of Dayton.

(B) Protect property values and ensure compatibility with the surrounding landscape and architecture.

(C) Promote and maintain visually attractive residential, business, industrial and other districts.

(D) Promote the economic well being of the community by creating a favorable physical image.

(E) Ensure that signs are located and designed to:

(1) Promote expeditious and safe navigation and wayfinding for pedestrian and vehicular traffic as well as emergency vehicles through legible and appropriate signage.

(2) Preserve order, attractiveness, and cleanliness, maintain open spaces, avoid the appearance of clutter, and prevent nuisances.

(3) Reduce visual distractions and confusion that may be contributing factors in traffic congestion and accidents, and maintain a safe and orderly pedestrian and vehicular environment.

(4) Promote the public health, safety, and welfare by avoiding conflicts between signs and traffic control devices, avoiding traffic hazards, and reducing visual obstructions.

(5) Minimize the disruption of the historic character, which when maintained protect important community values.

(6) Afford businesses, individuals and institutions a reasonable opportunity to use signs as an effective means of communication.

(F) Provide review procedures that assure that signs are consistent with the City's objectives.

(G) Prohibit all signs not expressly permitted by this Section. (Ord. 30515-05, passed 12-28-05; amend Ord. 31738-19, passed 5-29-19)

150.900.2 **Reserved** (Ord. 30515-05, passed 12-28-05; amend Ord. 31738-19, passed 5-29-19)

150.900.3 Computations and Rules of Measurement

The following regulations shall control the computation and measurement of sign area, sign height, window area and building frontage:

(A) Determining Sign Area or Dimension of Signs.

(1) The sign area shall include the face of all display area(s) of the sign. The sign area shall include the frame and structural support unless such structural support is determined to be an architectural feature as defined in sub-section 150.200.2, Definitions. Architectural features that are either part of the building or part of a freestanding structure are not considered signs and are exempt from these regulations.

(2) For a sign that is framed, outlined, painted or otherwise prepared and intended to provide a background for a sign display, the area of the sign shall be the area of not more than three (3) regular geometric shapes that encompass the entire area of the sign including the background or frame.

(3) For a sign comprised of individual letters, figures or elements on a wall or similar surface of a building or structure, or an irregularly shaped freestanding sign, the area of the sign shall be the area of not more than three (3) regular geometric shapes that encompass the perimeter of all of the elements of the display.

(a) When separate elements are organized to form a single sign, but the elements are separated by open space, the area of the sign shall include all the display areas, including the space between the elements.

(b) Up to five (5) percent of the permitted sign area may be considered minor protrusions and extend outside of the maximum limitation of three

(3) regular geometric shapes, and are, therefore, exempted from being included as part of the sign area. See Figure 1.

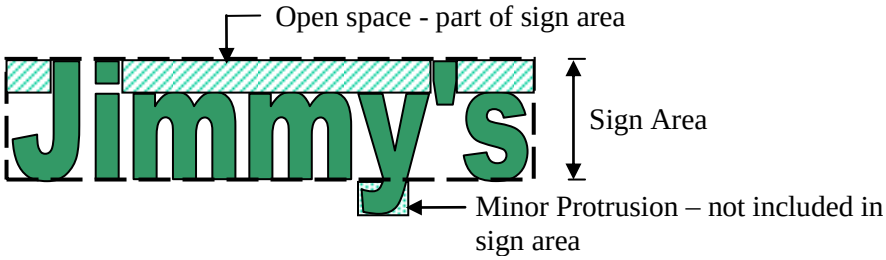

Figure 1. Calculation of open space area & area of minor protrusion.

(4) For freestanding signs and projecting signs the sign area shall be computed by the measurement of one (1) of the faces when two (2) identical display faces are joined, are parallel, or are within thirty (30) degrees of being parallel to each other and are at no point separated by a distance that exceeds three (3) feet. For any sign that has two (2) display faces that do not comply with the above regulation, or has more than two (2) display surfaces, then each surface shall be included when determining the area of the sign.

In determining the area of freestanding signs, the following shall be exempted from being considered as part of the maximum permitted area, see Figure 2:

(a) The portion of a solid sign base or other sign support, up to a maximum height of four (4) feet that:

(i) Is at least fifty (50) percent screened by landscaping at the time of installation; or

(ii) Complies with the requirements of sub-section (c) below.

(b) The air space under a freestanding sign between supporting posts, other air space between a projecting sign and the wall to which it is attached.

(c) Additional base area, framing or structural supports or other portions of the sign, when such areas are determined to be:

(i) Constructed and designed with materials which are similar to, or compatible with, the architecture of the building or other site features;

(ii) Not intended or designed to include messages; and

(iii) Exclusive of colors, trademarks, or any other decorative design features that are primarily intended to attract attention, rather than be unobtrusive or compatible with the architecture of the building or other site features.

All other exemptions to the area of a sign shall only be approved by the Board of Zoning Appeals.

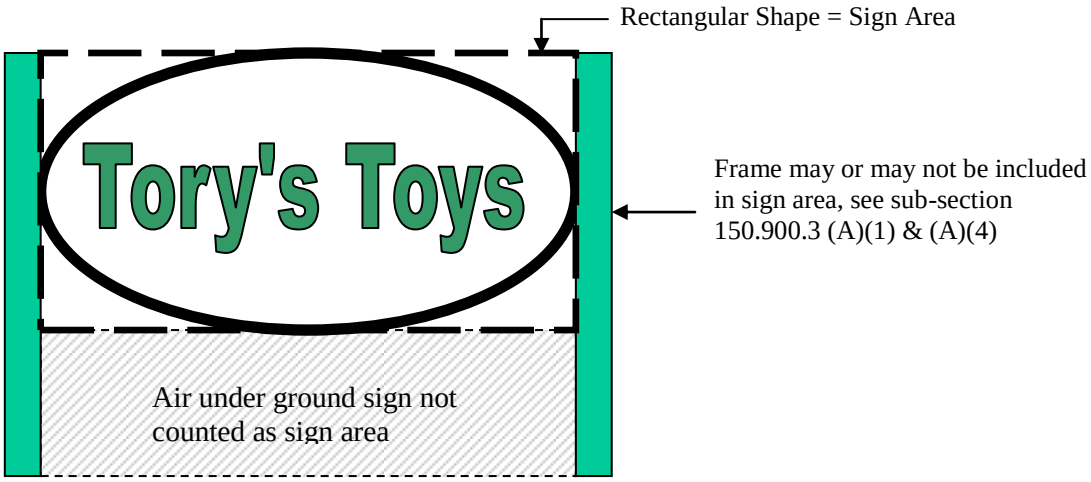

Figure 2. Calculation of sign area

(5) The height of a freestanding sign shall be measured from the elevation of the sidewalk or edge of the public right-of-way immediately adjacent, or nearest, to the sign structure, to the highest point of the sign, its frame, or decorative features

For locations that the Zoning Administrator determines to have unusual or irregular topography (along the street frontage and/or between the street right-of-way and the site of the sign) the Zoning Administrator may approve a modification to the height of the sign for the sole purpose of permitting the proposed sign to be approximately equal to the height of other conforming signs in the vicinity.

(B) Determining Building Frontage and Building Unit. For the purposes of this Section, the building frontage shall include the building walls that: face a public street, face a parking lot which serves the use, or contain a public entrance to the uses therein.

(1) The building frontage shall be measured along such building wall between the exterior faces of the exterior sidewalls.

(2) In the case of an irregular wall surface, a single straight line approximating such wall surface shall be used to measure the wall's length.

(3) For multiple-occupant buildings, the portion of a building that is owned or leased by a single occupant shall be considered a building unit. The building frontage for a building unit shall be measured from the centerline of the party walls defining the building unit.

(4) The primary frontage shall be the portion of a frontage that serves as the main access point to a principal building or building unit.

(5) The secondary frontage shall be all other walls with ingress and egress to the building unit, and walls that face a public right-of-way or parking facility.

(C) Determining Window Area. The window area of a building shall be the total glass area of windows on the building frontage. For the purposes of these regulations, a single glass window shall be all of the glass area that has less than four (4) inches of separation from other glass areas. For the purposes of determining window area for ground floor occupants, the ground floor shall only include the glass area to a height of fifteen (15) feet above the elevation of the first floor of the building.

(D) Determining Street Frontage. Street frontage is the length of the street that is contiguous to the adjacent private parcel for which the sign is being considered.

(E) Determining Sign Setbacks. The required setbacks for any freestanding sign shall apply to all elements of the sign, including its frame and base. (Ord. 30515-05, passed 12-28-05; amend Ord. 31738-19, passed 5-29-19)

150.900.4 Signs in Single-Family Residential and Manufactured Home Districts.

(A) Schedule 150.900.4 of Signs in Single-Family Residential and Manufactured Home Districts. All signs in single-family residential and manufactured home districts shall conform to the maximum area, height and quantity regulatons set forth in Schedule 150.900.4.

Schedule 150.900.4
Signs in Single-Family Residential and Manufactured Home Districts

(1) Residential Uses	
(a) Building Signs	
(i) Building Sign[2]	0.5 sf [1]
(ii) Window Sign	20% of window area, not to exceed three square feet, and limited to one window per dwelling.
(b) Freestanding Signs[2]	
(i) Maximum Area	25.0 sf
(ii) Maximum Height	5 ft
(iii) Maximum Quantity	1
(2) Nonresidential Uses	
(a) Building Signs	
(i) Building Sign	0.5 sf [1]
(ii) Window Sign	20% of window area, not to exceed three square feet, and limited to one window per principal building
(b) Freestanding Signs	
(i) Freestanding Sign	
A) Maximum Area	25.0 sf
B) Maximum Height	5 ft
C) Maximum Quantity	1
(ii) Entrance or Exit Sign	
A) Maximum Area	4.0 sf
B) Maximum Height	4.0 ft
C) Maximum Quantity	1 per curb cut

[1] per lineal foot of the principal building's primary frontage

[2] These uses are limited to: Multi-family buildings of eight or more units, townhouse developments and residential subdivisions

(B) Additional Requirement. Animation, flashing, movement, intermittent illumination, and electronic changeable copy shall not be permitted on all signs. (Ord. 30515-05, passed 12-28-05; amend Ord. 30762-08, passed 7-16-08; amend Ord. 30893-09, passed 7-15-09; amend Ord. 31738-19, passed 5-29-19)

150.900.5 Signs in Multi-Family Residential Districts

(A) Schedule 150.900.5 of Signs in Multi-Family Residential Districts. All signs in multi-family residential districts shall conform to the maximum area, height and quantity regulations set forth in Schedule 150.900.5.

Schedule 150.900.5 Signs in Multi-Family Residential Districts	
(1) Residential Uses	
(a) Building Signs	
(i) Building Sign	0.5 sf [1,2]
(ii) Window Sign	20% of window area, not to exceed three square feet, and limited to one window per dwelling
(b) Freestanding Signs[3]	
(i) Maximum Area	25.0 sf
(ii) Maximum Height	5 ft
(iii) Maximum Quantity	1
(2) Nonresidential Uses	
(a) Building Signs	
(i) Building Sign	0.5 sf [1,2]
(ii) Window Sign	40% of window area, and limited to one window per principal building
(b) Freestanding Signs	
(i) Freestanding Sign	
A) Maximum Area	25.0 sf
B) Maximum Height	5 ft
C) Maximum Quantity	1
(ii) Entrance or Exit Sign	
A) Maximum Area	4.0 sf
B) Maximum Height	4.0 ft
C) Maximum Quantity	1 per curb cut

[1] per lineal foot of the principal building's primary frontage
[2] Building sign permitted only when the principal building is set back at least twenty-five (25) feet from the right-of-way. Excluded uses are residential buildings of fewer than eight units
3 These uses include: Multi-family buildings, townhouse developments and residential subdivisions.

(B) Additional Requirement. Animation, flashing, movement, intermittent illumination, and electronic changeable copy shall not be permitted on all signs. (Ord. 30515-05, passed 12-28-05; amend Ord. 30762-08, passed 7-16-08; amend Ord. 30893-09, passed 7-15-09; amend Ord. 31738-19, passed 5-29-19)

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.

Schedule 150.900.6 Signs and Wallscapes in Downtown Districts	
(1) Building Signs	
(a) Building Sign	1.5 sf [1]
(b) Projecting Sign	6.0 sf [2]
(c) Window Sign	20% of window area
(2) Freestanding Signs	
(a) Freestanding Sign	
(i) Maximum Area	25.0 sf
(ii) Maximum Height	6.0 ft
(iii) Maximum Quantity	1
(b) Pedestrian Sign[3]	
(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
(3) Wallscapes	Only permitted in CBD; No maximum area [4]
[1] per lineal foot of the principal building's primary frontage [2] See sub-section (C) below [3] See sub-section 150.900.13 (C), Pedestrian Signs [4] 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 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. (Ord. 30515-05, passed 12-28-05; amend. Ord 31490-16, passed 5-04-16; amend Ord. 31738-19, passed 5-29-19)

150.900.7 Signs in Commercial Districts

(A) Schedule 150.900.7 of Signs in Commercial Districts. All signs in commercial districts shall conform to the maximum area, height and quantity regulations set forth in Schedule 150.900.7

Schedule 150.900.7
Signs in Commercial Districts

	Suburban (SNC, SGC)	Eclectic (ENC, EGC)	Mature (MNC, MGC)
(1) Building Signs			
(a) Building Sign	2.0 sf [1]	1.5 sf [1]	1.0 sf [1]
(b) Projecting Sign	16 sf [2]	16 sf [2]	16 sf [2]
(c) Window Sign	40% of window area	20% of window area	20% of window area
(2) Freestanding Signs			
(a) Freestanding Sign			
(i) Maximum Area	35.0 sf single occupancy; 50 sf multiple occupancy	35.0 sf single occupancy; 50 sf multiple occupancy	35.0 sf
(ii) Maximum Height	6.0 ft	6.0 ft	6.0 ft
(iii) Maximum Quantity	1	1	1
(b) Pedestrian Sign[3]			
(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	6.0 sf	6.0 sf
(ii) Maximum Height	4.0 ft	4.0 ft	4.0 ft
(iii) Maximum Quantity	1 per curb cut	1 per curb cut	1 per curb cut

[1] per lineal foot of the principal building's primary frontage
[2] See sub-section 150.900.7 (B) below
[3] See sub-section 150.900.13 (C), Pedestrian Signs

(B) Projecting Signs. Each use is permitted to 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 150.900.7, 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.

(C) Additional Building Signs for Multiple Story Buildings in Commercial Districts. In addition to the building signs permitted in Schedule 150.900.7 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 150 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. (Ord. 30515-05, passed 12-28-05; amend Ord. 30762-08, passed 7-16-08; amend Ord. 31738-19, passed 5-29-19)

150.900.8 Signs in Mixed-Use Hub, Transitional, Campus-Institutional, and Park/Open Space Districts.

(A) Schedule 150.900.8 of Signs in Mixed-Use Hub, Transitional, Campus-Institutional and Park/Open Space Districts. All signs in the Campus-Institutional District, the Transitional District, the Mixed Use Hub District, and the Park/Open Space District shall conform to the maximum area, height and quantity regulations set forth in Schedule 150.900.8.

Schedule 150.900.8
Signs in Mixed-Use Hub, Transitional, Campus-Institutional, and Park/Open Space Districts

	MX	T	CI	OS
(1) Building Signs				
(a) Building Sign	1.0 sf [1]	1.0-sf [1]	1.5 sf [1]	.5 sf [1]
(b) Projecting Sign	16.0 sf [2]	16.0 sf [2]	16.0 sf [2]	
(c) Window Sign	20% of window area	20 % of window area	20% of window area	20% of window area
(2) Freestanding Signs				
(a) Freestanding Sign				
(i) Maximum Area	35.0 sf	35.0 sf	35.0 sf	35.0 sf
(ii) Maximum Height	6.0 ft	6.0 ft	6.0 ft	6.0 ft
(iii) Maximum Quantity	1	1	1	1
(b) Pedestrian Sign[3]				
(i) Maximum Area	12 sf			
(ii) Maximum Height	4.0 ft			
(iii) Maximum Quantity	1 per building unit			
(c) Entrance or Exit Sign				

Schedule 150.900.8 Signs in Mixed-Use Hub, Transitional, Campus-Institutional, and Park/Open Space Districts				
	MX	T	CI	OS
(i) Maximum Area	6.0 sf	6.0 sf	6.0 sf	6.0 sf
(ii) Maximum Height	4.0 ft	4.0 ft	4.0 ft	4.0 ft
(iii) Maximum Quantity	1 per curb cut	1 per curb cut	1 per curb cut	1 per curb cut
[1] per lineal foot of the principal building's primary frontage [2] See sub-section 150.900.8 (C) below [3] See sub-section 150.900.13 (C), Pedestrian Signs				

(B) Additional Building Signs for Multiple Story Buildings in Mixed-Use Hub, Transitional and Campus-Institutional Districts. In addition to the building signs permitted in Schedule 150.900.8, 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 150 square feet.

(3) Additional permitted sign area shall be further commensurate with the height at which the sign is mounted.

(4) 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 use is permitted to 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 150.900.8, 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.

(D) Additional Requirement in the Transitional and Park/Open Space Districts. Animation, flashing, movement, intermittent illumination, and electronic changeable copy shall not be permitted on all signs. (Ord. 30515-05, passed 12-28-05; amend Ord. 30643-07,

passed 3-21-07; amend Ord. 30893-09, passed 7-15-09; amend Ord. 31142-11, passed 12-21-11; amend Ord. 31738-19, passed 5-29-19)

150.900.9 Signs in Industrial Districts

(A) Schedule 150.900.9 of Signs in Industrial Districts. All signs in industrial districts shall conform to the maximum area, height and quantity regulations set forth in Schedule 150.900.9. (Ord. 30515-05, passed 12-28-05; amend Ord. 30762-08, passed 7-16-08)

Schedule 150.900.9 Signs in Industrial Districts	
	I-1, I-2, & BP
(1) Building Signs	
(a) Building Sign	1.5 sf [1]
(b) Window Sign	20% of window area
(2) Freestanding Signs	
(a) Freestanding Sign	
(i) Maximum Area	35.0 sf
(ii) Maximum Height	8.0 ft
(iii) Maximum Quantity	1
(b) Entrance or Exit Sign	
(i) Maximum Area	6.0 sf
(ii) Maximum Height	4.0 ft
(iii) Maximum Quantity	1 per curb cut
1 per lineal foot of the principal building's primary frontage	

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. (amend Ord. 31490-16, passed 5-04-16)

150.900.10 Signs in Airport Districts

All signs in the Airport AP District shall be in accordance with the Dayton International Airport Master Plan and be in compliance with the applicable Federal Aviation Administration regulations. (Ord. 30515-05, passed 12-28-05)

150.900.11 Signs in Historic Districts.

All signs located in an historic district shall comply with the sign regulations of the underlying zoning district as well as the regulations of sub-section 150.345.14, Signs. (Ord. 30515-05, passed 12-28-05)

150.900.12 Adjustment of Maximum Sign Area

(A) Address Signs. In addition to the signage permitted in Schedules 150.900.4 – 150.900.0, all principal buildings and uses in all zoning districts shall have one (1) address sign that is plainly visible, and can be easily read, from the primary right-of-way fronted by the building or use. All principal buildings and uses in all zoning districts, which have frontage on an alley, shall also have one (1) address sign that is plainly visible from such alleyway, in addition to the signage permitted in Schedules 150.900.4 – 150.900.0.

(B) Building Signs. Additional area for building signs shall be permitted for any non-residentially zoned lot that meets the following requirements.

(1) Corner lots and Side and Rear Entrances. The maximum allowable area for building signs shall be increased beyond the allowable area set forth in Schedules 150.900.4 – 150.900.9 in compliance with the following:

(a) Additional area shall be permitted when a building has a secondary frontage as defined in sub-section 150.900.3.

(b) The increased sign area for each secondary building frontage shall be equal to sixty (60) percent of the sign area that would be permitted if the secondary frontage were the primary frontage.

(i) The additional sign area may be utilized only on the secondary building frontage.

(ii) The sign area permitted on the primary building frontage may, however, be redistributed along the secondary building frontage(s), provided that the total sign area facing the secondary street(s) or parking lot does not exceed the formula set forth in Schedules 150.900.4 – 150.900.9.

(2) Large Setbacks. The maximum permitted area for building signs may be increased by one-fourth square foot per lineal foot of building frontage for each 100 feet, or fraction thereof, of building setback when the principal building is set back more than 100 feet from the principal street. When only a portion of the building is set back more than 100 feet from the principal street, the sign area may be increased by one-fourth square foot per lineal foot of only that portion of the building that is more than 100 feet from the street. Notwithstanding any provision in this section, the total building sign area shall not exceed 200% of the maximum permitted area.

(C) Freestanding Signs. Additional area for freestanding signs shall be permitted for any non-residentially zoned lot that meets the following requirements.

(1) Corner lots. One additional freestanding sign shall be permitted for a corner lot provided that:

(a) The total lot frontage of both streets is not less than 300 feet;

(b) The area of each freestanding sign complies with Schedules 150.900.4 – 150.900.9, and the total area of both freestanding signs shall not exceed 175% of the area permitted for a single sign;

(c) The second freestanding sign is clearly located to address the secondary street; and

(d) The two signs may be aggregated into a single sign at the corner, pursuant to sub-section 150.900.13(A), provided that the area of any freestanding sign face shall not exceed 150% of the maximum area

permitted for a single sign, unless otherwise permitted in sub-section 150.900.12(C)(2) below.

(2) Large Lots. The area and number of freestanding signs on large lots may be increased according to the following:

(a) The allowable area of any freestanding sign may be increased by one (1) square foot for every five (5) feet of lot frontage in excess of 200 feet.

(b) The allowable area pursuant to this Section may be distributed to one freestanding sign for each 250 feet of lot frontage or fraction thereof.

(c) Notwithstanding any provision in this Section, the area of any freestanding sign shall not exceed 200 square feet. (Ord. 30515-05, passed 12-28-05; amend Ord. 31738-19, passed 5-29-19; amend Ord. 31752-19, passed 9-4-19)

150.900.13 Supplemental Sign Standards.

(A) Freestanding Signs.

(1) Minimum Sign Setback from Street. Freestanding signs are not required to be set back from the street right-or-way except that no portion of the sign or its support structure may extend into the right-of-way. All signs shall comply with Section 150.410, Visibility at Intersections.

(2) Minimum Side Setback from Side Lot Lines. Freestanding signs shall be located a minimum of ten (10) feet from any side lot line, except that when a side lot line coincides with a residential zoning district boundary line, the minimum setback shall be twenty (20) feet.

(3) Location. Freestanding signs shall not be erected on sidewalks, drives or in parking lots. The freestanding sign shall not obstruct the view of motorists entering or exiting the property.

(4) Multiple Tenant Facilities. When a freestanding sign is permitted on a site that has more than one tenant, it is the property owner's responsibility to determine whether the sign area will be devoted to identification of the building(s), the anchor tenant, all the tenants or some combination thereof.

(5) Changeable Copy.

(a) Freestanding signs may have up to thirty (30) percent of the permitted sign area set forth in Schedules 150.900.4 – 150.900.9 devoted to changeable copy.

(b) Changeable copy may be changed electronically, mechanically or manually, pursuant to the regulations of the zoning district in which the sign is located.

(c) Animation, flashing, movement, intermittent illumination, and electronic changeable copy shall not be permitted on signs within any residentially zoned district.

(B) Illumination of Permanent and Temporary Signs. Permanent and temporary signs shall be permitted to be illuminated in compliance with the following:

(1) Unless otherwise prohibited or not permitted in this Section, signs may include animation, flashing, movement, intermittent illumination, or electronic changeable copy provided these signs are not at all visible from residentially zoned districts.

(2) Temporary signs shall not be internally illuminated. Any external illumination of these signs shall be limited to the hours between 7:00 AM and 9:00 PM.

(3) External light sources shall be shielded from the view of persons viewing the sign and be further shielded and directed so that the light shines only on the sign and that illumination beyond the sign face is minimized.

(C) Pedestrian Signs. Pedestrian signs may be used provided the following criteria are met:

(1) They are not left outside after the business has closed for the day, if applicable.

(2) They have received applicable right-of-way permits and are positioned subject to the requirements of the City Engineer.

(D) Bonuses. In all non-residential zoning districts, the square footage of signs may be increased up to ten (10) percent under the following conditions:

(1) The sign is externally illuminated with gooseneck or other decorative lighting fixtures that point downward. Floodlights shall not be considered decorative lighting fixtures; or,

(2) The sign is constructed of sandblasted wood or synthetic materials that stimulate the look of sandblasted wood; or,

(3) The sign is composed of individual letters that are architecturally compatible with the structure to which they are attached.

(E) Wallscapes. Where wallscapes 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. (Ord. 30515-05, passed 12-28-05; amend Ord. 30762-08, passed 7-16-08; amend Ord. 30893-09, passed 7-15-09; amend Ord. 31490-16, passed 5-04-16; amend Ord. 31738-19, passed 5-29-19; amend Ord. 31752-19, passed 9-4-19)

150.900.14 Temporary Signs

The following regulations for the use of all temporary signs shall be in addition to the maximum sign area set forth in Schedules 150.900.4 – 150.900.9. Temporary signs may be window, freestanding or banner signs.

(A) Portable Signs. Portable signs are prohibited in all zoning districts.

(B) Temporary Signs in Non-Residential Districts.

(1) Developed Parcels. Temporary signs on developed parcels in non-residential districts are permitted pursuant to Schedule 150.900.14.

(2) Schedule 150.900.14 of Temporary Signs in Non-Residential Districts.

Schedule 150.900.14
Temporary Signs for Non-Residential Districts

For Each Parcel	
Maximum Area	40 square feet per acre of land (or fraction thereof) up to a maximum of 160 square feet
Maximum Size of Any One Sign	60 square feet
Maximum Number of Days per Year[1]	30
Maximum Number of Consecutive Days[1]	15
Maximum Number of Signs	3 per acre of land (or fraction thereof) up to a maximum of 6 signs
For Each Tenant in a Multiple-Tenant Building or Use	
Maximum Area per Tenant	1 square feet per lineal foot of primary building frontage up to a maximum of 25 square feet
Maximum Number of Days per Tenant per Year[1]	14
Maximum Number of Signs per Tenant	1
Maximum Distance of Sign from Building Front	5 feet
[1] One of the permitted temporary signs, with a maximum area of sixteen (16) square feet, may be displayed for an unlimited period of time.	

(3) Vacant Parcels. The following regulations for temporary signs on vacant parcels in non-residential districts apply for an unspecified period of time:

(a) One (1) temporary sign is permitted up to a maximum of thirty-two (32) square feet.

(b) A parcel that also has frontage on a second public street is entitled to a second sign, not to exceed thirty-two (32) square feet, provided that the length of the frontage along the second public street is a minimum of 300 feet.

(C) Temporary Signs in Residential Districts.

(1) For attached or detached single-family dwellings, two-family dwellings, and multi-unit buildings, four (4) temporary signs are permitted at any given time on any one zoning lot. Two (2) of the four signs may be displayed for an unlimited amount of time. The third and fourth signs are limited to a maximum of three (3) consecutive days and a maximum of ten (10) days per calendar year. No temporary sign shall exceed six (6) square feet.

(2) For nonresidential uses, two (2) temporary freestanding signs, that do not exceed sixteen (16) square feet each, may be erected. One of the two signs may be displayed for an unlimited amount of time. The second sign shall be limited to fifteen (15) days per calendar month.

(3) Vacant Parcels. The following regulations for temporary signs on vacant parcels in residential districts apply for an unspecified period of time:

(a) For a parcel less than one (1) acre, one (1) temporary sign is permitted up to a maximum of six (6) square feet.

(b) For a parcel greater than one (1) acre, one (1) temporary sign is permitted up to sixteen (16) square feet. A parcel that also has frontage on a second public street is entitled to a second sign, not to exceed sixteen (16) square feet, provided that the length of the frontage along the second public street is a minimum of 300 feet. (Ord. 30515-05, passed 12-28-05; amend Ord. 30762-08, passed 7-16-08; amend Ord. 31574-17, passed 7-05-17)

150.900.15 Design Criteria

(A) All Signs.

(1) The lettering shall be large enough to be easily read but not overly large or out of scale with the building or site.

(2) The sign shall be consolidated into a minimum number of elements.

(3) The ratio between the message and the background shall permit easy recognition of the message

(4) The size, style and location of the sign shall be appropriate to the activity of the site.

(5) The sign shall complement the building and adjacent buildings by being designed and placed to enhance the architecture of the building.

(6) Signs, if seen in a series, shall have a continuity of design with the style of sign generally consistent throughout the building or block.

(B) Unified Sign Plan.

(1) Irregular Sites: To recognize and accommodate irregular site shapes (which are typically characterized by narrow lot frontages resulting in some buildings with extraordinarily large setbacks and limited visibility to a public street) multiple contiguous properties may be consolidated as a single site for the purposes of determining the size, number and placement of freestanding signs permitted pursuant to this Section. Solely for the purposes of this Section, the number and area of the freestanding signs permitted pursuant to Schedules 150.900.4 – 150.900.9 shall be determined based on the size and frontage of the multiple properties being considered as a single parcel.

(2) New Multi-Tenant Buildings: In cases where two or more tenants occupy one building in any zoning district, the Zoning Administrator may require a Unified Sign Plan to ensure that the signage on the site is of a consistent quality, type and location. The maximum permitted sign area for each tenant shall be calculated according to the computational guidelines established in sub-section 150.900.3(B)(3).

(C) Construction Standards.

(1) The construction, erection, safety and maintenance shall comply with all applicable building codes.

(2) All signs shall be constructed in a professional manner in conformance with the Unified Building Code and other applicable requirements of the City.

(3) All signs shall be located and secured so as to pose no threat to pedestrian or vehicular traffic.

(4) Permanent signs shall be fabricated on and of materials that are of good quality and good durability.

(5) Electric signs and all permanent signs involving structural requirements of the building code shall be installed, repaired, altered and serviced only by a contractor licensed to perform such tasks.

(6) No sign shall be erected to as to project over or obstruct any window, door, fire escape, balcony, platform, stairway, ladder, vent or other means of ingress of any building.

(7) No sign shall be attached to a utility pole, tree, trash receptacle, bench, fence or other structure not intended or approved as a sign support.

(8) Temporary signs shall be durable and weather-resistant, and fastened or anchored sufficiently, whether attached to the building or positioned in the ground.

(9) No sign regulated by any of the provisions of this Section shall be erected in the right-of-way, in proximity to railroad crossings, or at the intersection of any

streets in such a manner as to obstruct free and clear vision, or at any location where, by reason of the position, shape or color, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device, or which makes use of the words "STOP", "LOOK", "DANGER" or any other word, phrase, symbol or character in such a manner as to interfere with traffic, and/or endanger public safety.

(10) In the event there is a conflict between the provisions of this Section and the provisions of any applicable building codes, the provisions of the applicable building code shall govern.

(11) For freestanding signs, the name, address and telephone number of the owner of the sign, or the sign contractor if different from the owner, shall be placed on the sign, or the base of the sign, at a height not to exceed eight (8) feet above the grade. Such identification shall be of such size as to be read by City officials at a distance of four (4) feet from the sign or base.

(12) Light sources for illuminated or flashing signs shall not be of such brightness as to constitute a hazard to pedestrian or vehicular traffic. Each message or copy shall remain fixed for at least eight seconds. When a message or copy changes by remote control or electric process, it shall be accomplished in three seconds or less. Such devices shall contain a default design that will freeze the device in one position if a malfunction occurs.

(13) No rotating beam, beacon, or flashing illumination resembling an emergency light shall be used in connection with any sign display.

(14) Except as otherwise permitted in this Section, building signs that are mounted ten (10) feet or less above grade shall not protrude more than three (3) inches into the right-of-way.

(D) Maintenance. All signs shall be maintained in accordance with the following:

(1) The property owner, occupant or other person responsible for the sign shall maintain the sign in a condition fit for the intended use and he/she shall have a continuing obligation to comply with all building code requirements.

(2) If the Zoning Administrator finds that any sign is unsafe, insecure, a menace to the public, or constructed, erected, or maintained in violation of the provisions of this Code, notice shall be given in writing by the Zoning Administrator to the owner. The owner of the sign shall, within forty-eight (48) hours of such notification, correct such unsafe condition or remove the sign. If the correction has not been made within the allotted forty-eight hours, the sign may be removed or altered by the City to comply with these regulations at the expense of the owner or occupant of the property upon which the sign is located. The Zoning Administrator may cause any sign, which, in the City's opinion, creates a danger to persons or property to be removed immediately and without notice.

(3) Whenever any sign, either conforming or non-conforming to these regulations, is required to be removed for the purpose of repairing, refurbishing or repainting, the same may be done without a permit or any payment of fees provided that all of the following conditions are met:

(a) There shall be no alteration, remodeling to the sign base, sign support(s) of the mounting of the sign itself.

(b) There shall be no enlargement, increase, or modification in any of the dimensions of the sign or its structure, including sign height, area, location, or number of faces.

(c) The sign shall be accessory to a legally permitted, conditional or non-conforming use.

(4) The Zoning Administrator may order any sign to be painted or refurbished whenever needed to keep the sign in a neat and safe condition. All supporters, guys, braces and anchors for such signs shall be maintained in a safe condition, and it shall be unlawful for the owner or person in charge of such sign to remove the same after receiving notice from the Zoning Administrator.

(5) In order to prevent misleading signage, reduce visual clutter, and prevent hazards to traffic control and safety, the face of any permanent sign which advertises a business that has not been conducted on the premises for 180 consecutive days, or fails to serve the purposes for which it was intended, or evidences a lack of maintenance, shall be removed by the owner, agent or person having the beneficial use of the building, structure or land upon which such sign is located, within ten (10) business days after written notice by the Zoning Administrator, and the sign area shall be replaced by a neutral, single background color panel or similar cover. If the sign is comprised of individually raised letters, the letters shall be removed. Upon failure to comply with such notice within the time specified in such order, the Zoning Administrator is hereby authorized to cause removal of such sign, and any expense incident thereto shall be paid by the owner of the property on which the sign is located. (Ord. 30515-05, passed 12-28-05; amend Ord. 30762-08, passed 7-16-08; amend Ord. 31738-19, passed 5-29-19)

150.900.16 Exempted Signs

The following signs are not subject to the provisions of this Section:

(A) Governmental signs for control of traffic and other regulatory purposes, street signs, warning signs, railroad crossing signs, and signs of public service companies for the purpose of safety, and any sign required by the Federal government, the State of Ohio, or a court of competent jurisdiction.

(B) Commemorative historical plaques, neighborhood identification signs installed by the City of Dayton, and other works of art.

(C) Any sign in a building, not attached to a window or door that is not legible from a distance of more than three (3) feet beyond the building in which such sign is located.

(D) Any outdoor sign which is not in any way visible from any adjacent public right-of-way or from any adjacent property.

(E) Decorations pertaining to religious or secular holidays when displayed during the appropriate time of the year. (Ord. 30515-05, passed 12-28-05; amend Ord. 31738-19, passed 5-29-19)

150.900.17 Prohibited Signs

All signs not expressly permitted in this Section or exempt from regulations pursuant to 150.900.16, Exempted Signs, shall be prohibited in the City. Such signs may include, but are not limited to, the following:

(A) Any sign attached or otherwise applied to trees, bus shelters, utility poles, benches, trash receptacles, or other structures located in the public right-of-way, without the City's permission.

(B) Any movable sign over 20 square feet, inflatable signs and tethered balloons, pennants, ribbons, banners, streamers, spinners and other similar types of attention-getting devices, except for changeable copy signs when in compliance with the applicable regulations in this Section.

(C) Any signs on structures that are stacked one on top of another, or that are attached side-by-side.

(D) Portable signs.

(E) Roof signs, except roof signs shall be permitted in the CBD, UBD and Industrial Districts when the signage is located on the panels screening mechanical equipment. For the purposes of determining conformance with the regulations in this Section, a roof sign in the CBD, UBD and Industrial Districts shall be considered a building sign.

(F) Merchandise, equipment, products, vehicles or other items not themselves for sale and placed for attention getting, identification, or advertising purpose. (Ord. 30515-05, passed 12-28-05; amend Ord. 30716-08, passed 2-06-08; amend Ord. 31738-19, passed 5-29-19)

150.900.18 Regulations for Non-Conforming Signs

(A) Maintenance of Non-Conforming Signs. Non-conforming signs shall continue to be maintained in good condition pursuant to sub-section 150.900.15(D), Maintenance, and the building requirements of the City until such sign is required to be removed as set forth in this Section.

(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 voluntarily abandoned for ninety (90) consecutive days, 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, or change of use, 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 such repairs are limited to routine repairs and maintenance, such as but not limited to painting, electrical repair, repair of broken sign face elements, and weatherproofing. Major structural repairs, such as the removal and replacement of a damaged or deteriorated sign base, sign supports, or the remounting of the non-conforming sign itself, shall not be permitted. Repairs to off-premise signs shall be regulated by Section 150.925.

(C) Historic Signs. The Landmarks Commission may grant exceptions to these standards whenever a sign or property has been designated an historic sign pursuant to the guidelines and criteria established and adopted by the City Commission.

(D) Extension of Time to Comply. The dates established in this Section for a sign to be brought into compliance with these regulations may be appealed to the Board of Zoning Appeals by the owner or lessee of the non-conforming sign pursuant to sub-section 150.900.20, Variances and Appeals. In evaluating the extension of time for a non-conforming use, the Board of Zoning Appeals shall consider the following factors to determine whether the owner or lessee of the sign has had a reasonable amount of time to recoup his/her investment:

(1) The value of the sign at the time of construction and the length of time the sign has been in place.

(2) The life expectancy of the original investment in the sign and its salvage value, if any.

(3) The amount of depreciation and/or amortization of the sign already claimed for tax or accounting purposes.

(4) The length of the current tenant lease or expected occupancy compared to the date the sign is to be brought into compliance.

(5) The extent to which the sign is not in compliance with the requirements of this Section.

(6) The degree to which the Board of Zoning Appeals determines that the sign is consistent with the purposes of this Section. (Ord. 30515-05, passed 12-28-05; amend Ord. 31490-16, passed 5-04-16; amend Ord. 31738-19, passed 5-29-19; amend Ord. 31752-19, passed 9-4-19)

150.900.19 Administrative Provisions

(A) Compliance with this Section. No person shall erect, locate, move, alter or replace any sign or cause a sign to be located or maintained, unless all provisions of this Section have been met.

(B) Application, Administrative Review and Approval of Signage Proposals.

(1) When any person other than the owner of the property submits a sign application, the owner of the property or a designated agent for the owner shall also sign such application.

(2) All signage proposals requiring review and approval shall be reviewed administratively by the Zoning Administrator for compliance with the design criteria, construction standards, maintenance and all other applicable regulations in this Section.

(3) Approved signage proposals will receive from the Zoning Administrator a Sign Permit.

(4) Temporary signs do not require a Sign Permit from the Zoning Administrator prior to erection, except as required by Schedule 150.900.19.

(C) Schedule 150.900.19 – Administrative Requirements.

Schedule 150.900.19
Administrative Requirements

Sign Type	Sign Permit Required	Sign Permit Not Required
Building Sign	X	
Entrance or Exit Sign	X	
Freestanding Sign	X	
Off-Premise Sign	X[2]	
Temporary Sign		X[1]

[1] A sign permit shall be required for all temporary signs over 32 sq. ft.
[2] See Section 150.925, Off-Premise Sign Regulations

(D) Status of Prior Violations. All violations of the sign regulations repealed by the adoption of this Zoning Code shall remain violations and all penalties and

enforcement remedies set forth herein shall be available to the City as though the violation were a violation of this Zoning Code. Provided, however, that if the effect of this Zoning Code is to make a sign, that was formerly unlawful or non-conforming, become lawful and/or conforming, then no enforcement action shall be taken except for the imposition and collection of penalties, other than the removal of the sign, for the violations that occurred prior to the effective date of this Zoning Code. (Ord. 30515-05, passed 12-28-05; amend Ord. 30716-08, passed 2-06-08; amend Ord. 31738-19, passed 5-29-19)

150.900.20 Variances and Appeals

The Board of Zoning Appeals shall hear and decide on any request for a variance to the regulations in this Section including, but not limited to:

(A) The maximum sign area, maximum sign height, and the location of the sign on the parcel. In evaluating the request for a variance to the maximum sign height, the Board of Zoning Appeals may consider whether there are special topographic circumstances that would result in a material impairment of visibility of the sign from the adjacent roadway, which significantly diminishes the owner's, or user's, ability to continue to communicate adequately and effectively with the public through the use of the sign.

(B) The portion of the sign structure that should be exempt from being considered part of the sign area if such exemption has not been granted by the Zoning Administrator pursuant to sub-section 150.900.3, Computations and Rules of Measurement. (Ord. 30515-05, passed 12-28-05; amend Ord. 31738-19, passed 5-29-19)

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Section 150.925
Off-Premise Sign Regulations

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150.925.1 Purposes

The purpose of 150.925 is to promote the health, safety and welfare of the city by establishing standards and requirements for the construction, alteration, repair, replacement, location or relocation of off-premises signs within the City of Dayton. It is intended to supplement the standards and requirements applicable to all signs as set forth in 150.900 of the Zoning Code. In the event a conflict is found to exist between a provision applicable to all signs as set forth in 150.900 and a provision applicable to off-premises signs as set forth in 150.925, the more restrictive provision shall prevail.

It is the intent of the city to permit off-premise signs within certain districts of the city, subject to height, area and spacing requirements, while restricting, or prohibiting, the placement of off-premises signs within residential and other districts of the city where off-premises signs are incompatible with permitted uses. (Ord. 30716-08, passed 2-06-08)

150.925.2 Definitions

The following shall serve as definitions as they are referred to within this Section. All other terms shall be as defined in 150.200 and 150.900.2 of this Zoning Code.

(A) Back-to-Back Sign means an off-premise sign consisting of two sign facings oriented in opposite directions or within 40 degrees of being parallel.

(B) Electronic Off-Premise Sign means an off-premise sign, or portion thereof, that can be electronically changed by remote or automatic means, or that appears to change or have movement caused by any method other than the movement or rotation of panels or slats, or manually removing or replacing the off-premise sign or its components, whether the apparent movement or change is in the display, the off-premise sign's structure, or any component of the off-premise sign. This includes but is not limited to any video-display, revolving, flashing, or

animated displays, intermittent illumination or the illusion of illumination, or light emitting diodes (LED's) manipulated through digital input that allows the off-premise sign face to present a series of images. A multiple message advertising device is not considered to be an electronic off-premise sign.

(C) Multiple Message Advertising Device means a sign, display, or device that changes the message or copy on the sign electronically by movement or rotation of panels or slats.

(D) Sign Panel means the area inside of a single sign frame or on a single continuous surface that contains an advertising message.

(E) Single-Faced Sign means an off-premise sign consisting of one sign face.

(F) Viewshed means the landscape, topography, or built environment visible from a single location. (Ord. 30716-08, passed 2-06-08; amended Ord. 31142-11, passed 12-21-11)

150.925.3 Off-Premise Sign Requirements

No person shall install, construct, alter, repair, replace, locate or relocate an off-premise sign within the city, except in accordance with 150.925.4 through 150.925.14 of this Zoning Code. (Ord. 30716-08, passed 2-06-08)

150.925.4 Permitted Districts

(A) Except as prohibited by 150.925.4 (B), and subject to the requirements and restrictions set forth in this Section of the Zoning Code, a person may install, construct, alter, repair, replace, locate or relocate an off-premise sign within the following zoning districts of the city:

(1) Eclectic General Commercial (EGC),

(2) Suburban Neighborhood Commercial (SNC),

(3) Suburban General Commercial (SGC),

(4) Light Industrial (I-1),

(5) General Industrial (I-2),

(6) Wellhead Operation (WO)

(B) No person shall install, construct, alter, repair, replace, locate or relocate an off-premise sign in a Historic Overlay District of the city. No person shall install, construct, alter, repair, replace, locate or relocate an off-premise sign on or above the roof of any building or structure within the city.

(C) An off-premise sign located in these districts that is non-conforming due to its failure to comply with the maximum area, maximum height, or minimum spacing mandated in Schedules 150.925.10, 150.925.11, or 150.925.13 or the setbacks in 150.925.12, may be

rebuilt, replaced, or modernized in the same proximate location provided that such rebuilding, replacement, or modernization does not increase the height or area of the off-premise sign. (Ord. 30716-08, passed 2-06-08; amend Ord. 31142-11, passed 12-21-11; amend Ord. 31738-19, passed 5-29-19)

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 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. (Ord. 30716-08, passed 2-06-08; amend Ord. 31142-11, passed 12-21-11; amend Ord. 31490-16, passed 5-04-16)

150.925.6 Non-Conforming Off-Premise Signs In Residential Districts, UBD, CBD, BP, CI and MNC Districts

(A) The owner of a non-conforming off-premise sign located in a residential zoning district, or Urban Business District (UBD), Central Business District (CBD), Business Park (BP), Mature Neighborhood Commercial District (MNC), or Campus Institutional District (CI) of the city may apply to the Plan Board, pursuant to the procedures for Major Site Design Plan Review in Section 150.115, for permission to relocate the non-conforming off-premise sign to a location within a zoning district enumerated in 150.925.4 (A). In submitting an application, the owner may request the Plan Board to waive one or more of the requirements set forth in 150.925.10, 150.925.11, 150.925.12 and 150.925.13.

(B) The Plan Board shall consider an application submitted in accordance with 150.925.6 (A), and any requested waiver, at a public meeting conducted by the Plan Board. In granting or denying the requested application, the Plan Board shall take the following factors into consideration:

(1) Impact the proposed relocated off-premise sign will have on adjacent uses and residential districts;

(2) Condition and type of off-premise sign removed and its impact on adjacent uses and residential districts;

(3) The area, height and setback waivers, if any, sought for the proposed off-premise sign to be relocated;

(4) Effect of proposed relocated off-premise sign on the safety and use of streets and highways;

(5) Proximity of proposed relocated off-premise sign to other existing off-premise signs and the cumulative effect of these signs on other properties;

(6) Illumination, if any, of the proposed relocated off-premise sign;

(7) The topography and uses of other properties affected by the proposed relocated off-premise sign; and

(8) The objectives of this Zoning Code and land use plans adopted by the city.

(C) The Plan Board shall conduct its public meeting in accordance with the major site design review procedure set forth in 150.115 of this Zoning Code after giving notice as prescribed by 150.115.8.

(D) In granting an application submitted pursuant to 150.925.6, the Plan Board shall condition its approval upon the removal of the existing non-conforming off-premise sign and the completion of necessary grading, landscaping and site restoration work on the property from which the non-conforming off-premise sign is removed. (Ord. 30716-08, passed 2-06-08; amend Ord. 31142-11, passed 12-21-11; amend Ord. 31738-19, passed 5-29-19)

150.925.7 Non-Conforming Off-Premise Signs in Transitional Districts

A non-conforming off-premise sign located in a Transitional (T) district of the city may be replaced with a new off-premise sign meeting all of the following requirements:

(A) The owner of a non-conforming sign located in the Transitional district of the city may apply to the Plan Board, pursuant to the procedures for Major Site Design Plan Review in Section 150.115, to replace an off-premise sign at the same location.

(B) The Plan Board shall consider an application submitted in accordance with 150.925.7(A) at a public meeting conducted by the Plan Board.

(C) In granting or denying the requested application, the Plan Board shall take in consideration the following factors:

(1) The beneficial effects, if any, replacement of the existing non-conforming will have on other properties, and

(2) The objectives of this Zoning Code and land use plans adopted by the city.

(D) The Plan Board shall conduct its public meeting in accordance with the major site design procedure set forth in 150.115 of this Zoning Code after giving notice as prescribed by 150.115.8. (Ord. 30716-08, passed 2-06-08; amend Ord. 31142-11, passed 12-21-11)

150.925.8 Non-Conforming Off-Premise Signs in MGC and ENC Districts

(A) The owner of a non-conforming off-premise sign located in a Mature General Commercial (MGC) or Eclectic Neighborhood Commercial (ENC) District of the city may apply to the Plan Board, pursuant to the procedures for Major Site Design Plan Review in Section 150.115, for permission to replace the non-conforming off-premise sign with an off-premise sign in the same district. In submitting an application, the owner may request the Plan Board to waive the setback requirements of 150.925.12.

(B) The Plan Board shall consider an application submitted in accordance with 150.925.8 (A), and any requested waiver, at a public meeting conducted by the Plan Board. The

Plan Board shall give particular consideration to off-premise signs that are single-faced and located so that the proposed non-conforming off-premise sign appears to be integrated into an existing building, structure, land mass or railroad right-of-way. In addition, if wall mounted, the proposed non-conforming off-premise sign shall not extend beyond the wall or roof-line of the building.

(C) In granting or denying the requested application, the Plan Board shall take into consideration, in addition to the requirements set forth in 150.925.8 (B), the following factors:

(1) The location, size and height of the proposed non-conforming off-premise sign;

(2) The adverse effects, if any, the proposed non-conforming off-premise sign will have on other properties;

(3) The beneficial effects, if any, removal of the existing non-conforming off-premise sign will have on other properties;

(4) The visual clutter or obstruction created, or abated, by the proposed non-conforming off-premise sign.

(5) The effects, if any, the proposed non-conforming off-premise sign will have upon the architectural elements of a building or structure, and

(6) The objectives of this Zoning Code and land use plans adopted by the city.

(D) The Plan Board shall conduct its public meeting in accordance with the major site design review procedure set forth in 150.115 of this Zoning Code after giving notice as prescribed by 150.115.8.

(E) In granting an application submitted pursuant to 150.925.8, the Plan Board shall condition its approval upon the removal of the existing non-conforming off-premise sign and the completion of necessary grading, landscaping and site restoration work on the property from which the non-conforming off-premise sign is removed. (Ord. 30716-08, passed 2-06-08; amend Ord. 31142-11, passed 12-21-11)

150.925.9 General Provisions

(A) No off-premise sign shall be constructed which resembles any official marker erected by a governmental entity, or which by reason of position, shape, or color would conflict with the proper functioning of any official traffic control device.

(B) Off-premise signs shall be constructed in accordance with local and state building and electrical codes. Stamped structural engineering plans shall accompany sign permit applications and shall be subject to wind speed requirements as set forth in the latest edition of the Ohio Basic Building Code.

(C) Off-premise signs shall be regularly maintained in a good and safe structural condition. Any painted portions shall be periodically repainted and kept in good condition.

(D) No off-premise sign shall be located on a property without the consent of the property owner or legal representative thereof.

(E) The owner of an off-premise sign shall keep the area in the immediate vicinity of any freestanding sign on undeveloped and developed property free and clear of sign materials, weeds, debris, trash and refuse.

(F) Permitted off-premise signs are single-faced signs and back-to-back signs provided they comply with all regulations of this Section. Back-to-back signs shall have sign faces of the same area and dimensions, excluding decorative embellishments.

(G) Off-premise signs shall not have more than two sign panels per sign facing.

(H) Off-premise sign structures shall not have more than two sign facings.

(I) At a single location, only one multiple message advertising device or electronic off-premise sign panel shall be permitted to face the same direction. (Ord. 30716-08, passed 2-06-08; amend Ord. 31142-11, passed 12-21-11)

150.925.10 Maximum Area of Off-Premise Signs

Unless exempted pursuant to 150.925.6 (A), off-premise signs shall comply with the maximum area set forth in Schedule 150.925.10. (Ord. 30716-08, passed 2-06-08; amend Ord. 31738-19, passed 5-29-19)

Schedule 150.925.10 Maximum Area of Off-Premise Signs	
District	**Maximum Area**
EGC	300 s.f.
SNC	150 s.f.
SGC	300 s.f.
I-1	300 s.f. (2-lane roadway) 400 s.f. (4-lane roadway)
I-2	400 s.f. (2-lane roadway) 672 s.f (4-lane roadway)
WO	400 s.f. (2-lane roadway) 672 s.f. (4-lane roadway)

150.925.11 Maximum Height of Off-Premise Signs

Unless exempted pursuant to 150.925.6 (A), off-premise signs shall comply with the maximum height set forth in Schedule 150.925.11. (Ord. 30716-08, passed 2-06-08; amend Ord. 31738-19, passed 5-29-19)

Schedule 150.925.11 Maximum Height of Off-Premise Signs	
District	**Maximum Height**
EGC	35 ft
SNC	20 ft
SGC	35 ft
I-1	35 ft
I-2	40 ft
WO	40 ft

150.925.12 Setback Requirements for Off-Premise Signs

(A) A minimum setback of ten (10) feet is required from any right-of-way line or proposed thoroughfare line shown on the Official Thoroughfare Plan for all off-premise signs, regardless of the zoning district in which such sign is located.

(B) A minimum setback of five (5) feet is required from all side lot lines for any off-premise sign, regardless of the zoning district in which such sign is located.

(C) A minimum setback of five (5) feet is required from the rear lot line for any off-premise sign, regardless of the zoning district in which such sign is located.

(D) In no case shall any portion of an off-premise sign overhang into or be placed in the public right-of-way, unless a Special Privilege Permit has been issued or other permit as may be required by the applicable jurisdiction.

(E) The required setbacks for any off-premise sign shall apply to all elements of the sign, including its frame and base and any temporary embellishments. (Ord. 30716-08, passed 2-06-08)

150.925.13 Spacing Requirements for Off-Premise Signs

Unless exempted pursuant to 150.925.6 (A), an off-premise sign shall only be established in compliance with the spacing requirements in Schedule 150.925.13 as measured by using a straight-line distance in all directions from the central point of the off-premise sign structure. The central point of an off-premise sign structure shall be a point on the ground that represents the geometric center of the area on the ground that is below any portion of the off-premise sign. (Ord. 30716-08, passed 2-06-08; amend ord. 31028-10, passed 10-20-10)

Schedule 150.925.13
Spacing Distances for All Off-Premise Signs

		Proposed Off-Premise Sign		
		0-150 sq. ft.	**151-300 sq. ft.**	**301+ square feet**
Closest Existing Off-Premise Sign	0-150 square feet	350 feet	500 feet	1000 feet
	151-300 square feet	500 feet	500 feet	1000 feet
	301+ square feet	1000 feet	1000 feet	1000 feet
Minimum Distance Between Proposed Sign and Residential Zoning District Boundary Line		200 feet	200 feet	200 feet

150.925.14 Lighting of Off-Premise Signs

Off-premise signs may be illuminated subject to the following regulations:

(A) Signs that contain, include, or are illuminated by any flashing, intermittent, or moving light or lights are prohibited if such signs interfere with traffic safety. Reflective surfaces or devices on sign faces, and changeable copy signs with illumination are permitted

provided such signs do not interfere with traffic safety and comply with this sub-section 150.925.14.

(B) Signs shall not be of such intensity or brilliance to cause glare or impair the vision of the driver of any motor vehicle or otherwise interfere with any driver's operation of a motor vehicle.

(C) No sign shall be so illuminated that it interferes with the effectiveness of or obscures an official traffic sign, device or signal.

(D) Each message or copy shall remain fixed for at least eight seconds.

(E) When a message or copy changes by remote control or electric process, it shall be accomplished in three seconds or less.

(F) Such advertising devices shall contain a default design that will freeze the device in one position if a malfunction occurs. (Ord. 30716-08, passed 2-06-08, amend Ord. 31142-11, passed 12-21-11)

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Section 150.950
Adult Regulations

§150.950.1 Purpose and Findings
§150.950.2 Definitions
§150.950.3 Location of Sexually Oriented Businesses
§150.950.4 Severability

150.950.1 Purposes and Findings

(A) Purpose. The City of Dayton has determined that permitting sexually oriented businesses, as defined in this Section, in proximity to residential, institutional, and non-adult oriented retail uses would have a detrimental effect on such adjacent uses. It has been demonstrated that sexually oriented businesses, as defined in this Section, have been known to cause undesirable secondary effects on residential and institutional uses, particularly those where children are present, as well as adjacent non-sexually oriented business oriented retail uses. The provisions of this Chapter do not have the purpose or effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Further, it is not the intent of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene material. Therefore, in order to prevent potential deterioration in Dayton's retail areas; and to avoid potential adverse impacts on residential and institutional uses particularly those where children are present, and thereby protecting the public health, safety and welfare, sexually oriented businesses, as defined in this Section, shall be permitted only in the I-1 and I-2 Districts subject to the following requirements.

(B) Findings. The City Commission has received substantial evidence concerning the adverse secondary effects of adult uses on the community in findings incorporated in the cases of City of Renton v. Playtime Theatres, Inc., 475 U.S. 41 (1986), Young v. American Mini Theatres, 426 U.S. 50 (1976), and Barnes v. Glen Theatre, Inc., 501 U.S. 560 (1991), and on studies in other communities, including, but not limited to, Phoenix, Arizona; Tucson, Arizona; Garden Grove, California; Los Angeles, California; Whittier, California; Indianapolis, Indiana; Oklahoma City, Oklahoma; Amarillo, Texas; Austin, Texas; Beaumont, Texas; Houston, Texas; and Seattle, Washington. (Ord. 30515-05, passed 12-28-05)

150.950.2 Definitions

For the purpose of this Zoning Code, the following terms shall have the meaning herein indicated:

(A) Adult arcade means any place to which the public is permitted or invited where either or both:

(1) Motion picture machines, projectors, video or laser disc players, or other video or image-producing devices are available, run via coin, token or any form of consideration, to show images to five or fewer persons at one time; and

(2) Where the images shown and/or live entertainment presented are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(B) Adult bookstore, adult novelty store or adult video store means a commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

(1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, videocassettes, videodisks, CD-ROM disks, or video reproductions, slides or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; or

(2) Instruments, devices or paraphernalia, other than prophylactics, that are designed for use in connection with "specified sexual activities."

(C) Adult cabaret means a nightclub, bar, restaurant or similar commercial establishment that regularly features:

(1) Persons who appear in a "state of nudity" or "state of semi-nudity"; or

(2) Live entertainment characterized by the depiction or description of "specified anatomical areas" or by "specified sexual activities"; or

(3) Live entertainment of an erotic nature including exotic dancers, strippers, male or female impersonators or similar entertainment; or

(4) Films, motion pictures, videocassettes, slides or other photographic reproductions that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(D) Adult motion picture theater means a commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides, viedeodisks, CD-ROM disks, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(E) Adult theater means a theater, concert hall, auditorium or similar commercial establishment that regularly features persons who appear in a "state of nudity" or "semi-nudity" or live performances which are characterized by the by the depiction or description of "specified anatomical areas," by "specified sexual activities," or live entertainment of an erotic nature, including exotic dancers, strippers, male or female impersonators, or similar entertainment.

(F) Nude model studio means any place where a person who appears in a "state of nudity" or "semi-nudity" or "who displays specified anatomical areas" is

provided to be observed, sketched, drawn, painted, sculpted, photographed or similarly depicted by other persons who pay money or any form of consideration.

(G) Nudity, state of nudity or nude means exposing to view the genitals, pubic area, vulva, perineum, anus, anal cleft or cleavage, or pubic hair with less than a fully opaque covering; exposing to view any portion of the areola of the female breast with less than a fully opaque covering; exposing to view male genitals in a discernibly turgid state, even if entirely covered by an opaque covering; or exposing to view any device, costume or covering that gives the appearance of or simulates any of these anatomical areas.

(H) Seminudity, state of semi-nudity or seminude means exposing to view with less than a fully opaque covering, any portion of the female breast below the top of the areola or any portion of the buttocks. This definition shall include the entire lower portion of the female breast, but shall not include any portion of the cleavage of the female breast exhibited by a dress, blouse, shirt, leotard, bathing suit or other clothing, provided that the areola is not exposed in whole or in part.

(I) Sexual encounter center means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

(1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

(2) Activities between male and female persons and/or persons of the same sex when one or more of the persons is semi-nude.

(J) Sexually oriented business means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motion picture theater, adult theater, nude model studio or sexual encounter center.

(K) Specified anatomical areas means any of the following:

(1) The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or

(2) Less than completely and opaquely covered human genitals, pubic region, buttocks or a female breast below a point immediately above the top of the areola.

(L) Specified sexual activities means any of the following:

(1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breast;

(2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation or sodomy;

(3) Excretory functions as part of or in connection with any of the activities set forth in subsection (l) (l) or (2) above. (Ord. 30515-05, passed 12-28-05)

150.950.3 Location of Sexually Oriented Businesses

Subject to any other applicable regulations in the R.C.G.O., other provisions of this Zoning Code, and any applicable State law or regulation, a sexually oriented business may be located only in accordance with the following restrictions:

(A) A sexually oriented business may only be located as a conditional use in the I-1 and I-2 Districts.

(B) No sexually oriented business shall be established within 500 feet of any residential zoning district boundary or Campus-Institutional District boundary.

(C) No sexually oriented business shall be established within a radius of 1,000 feet of any lot containing a school, library, or teaching facility, whether public or private, governmental or commercial, which school, library, or teaching facility is attended by persons under 18 years of age.

(D) No sexually oriented business shall be established within a radius of 1,000 feet of any lot containing a park or recreational facility attended by persons under 18 years of age.

(E) No sexually oriented business shall be established within a radius of 1,000 feet of any lot containing another sexually oriented business.

(F) No sexually oriented business shall be established within a radius of 1,000 feet of any lot containing a church, synagogue, mosque, or permanently established place of religious services, which is attended by persons under 18 years of age. (Ord. 30515-05, passed 12-28-05)

150.950.4 Severability

Sections and sub-sections of this Zoning Code and the several parts or provisions thereof are hereby declared to be independent Sections, sub-sections, parts and provisions. If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, word or provision of this Zoning Code, or amendment thereto, or any application of any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, word or provision to particular circumstances is held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Zoning Code or amendments thereto, or the application of such provision to other circumstances. (Ord. 30515-05, passed 12-28-05; amend Ord. 31028-10, passed 10-20-10)