Notice of Meeting

CITY COUNCIL WORK SESSION

Tuesday, September 6, 2022

at or about 6:00 p.m. at City Hall – Council Chambers – 6131 Taylorsville Road

Huber Heights Mayor Jeff Gore has scheduled a City Council Work Session to discuss:

- City Manager Report
- Roadway Guardrail Repair/ Replacement – Award Contract
- Increase Not To Exceed Amount – Phoenix Safety Outfitters – Fire Division Safety Equipment
- Mardi Gras Drive Area – Water Main Replacement – Solicit Bids
- 2023 Water Main Replacement Projects – Engineering Design
- Stormwater Fees
- City Of Fairborn – Wastewater Services Contract
- Case RZ 22-17 – Michael Skilwies – Rezoning/Replat – 9416 Taylorsville Road
- Adopting Ordinance – City Code – Traffic Code/General Offenses Code
- Board And Commission Appointments
- Ordinance To Appropriate Property – Well Field

Please Note:
The meeting will be viewable by the public on live stream available at www.hhoh.org

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CITY OF HUBER HEIGHTS
STATE OF OHIO

City Council Work Session

September 6, 2022
6:00 P.M.
City Hall – Council Chambers – 6131 Taylorsville Road

1. **Call Meeting To Order/Roll Call**

2. **Approval of Minutes**

   A. August 16, 2022

3. **Work Session Topics Of Discussion**

   A. City Manager Report

   B. Roadway Guardrail Repair/Replacement - Award Contract

   C. Increase Not to Exceed Amount - Phoenix Outfitters - Fire Division Safety Equipment

   D. Mardi Gras Drive Area - Water Main Replacement - Solicit Bids

   E. 2023 Water Main Replacement Projects - Engineering Design

   F. Stormwater Fees

G. City of Fairborn - Wastewater Services Contract

H. Case RZ 22-17 - Michael Skilwies - Rezoning/Replat - 9416 Taylorsville Road

I. Adopting Ordinance - City Code - Traffic Code/General Offenses Code Amendments

J. Board And Commission Appointments

* Board of Zoning Appeals - Appointment

K. Ordinance To Appropriate Property - Well Field

4. **Adjournment**

CITY OF HUBER HEIGHTS
STATE OF OHIO

Council Work Session Meeting Minutes

Name of Body: Council Work Session

Date: September 6, 2022

Time: 6:00 P.M.

Place: City Hall – 6131 Taylorsville Road – Council Chambers

Members Present:

Kathleen Baker, Councilmember
Nancy Byrge, Councilmember
Mark Campbell, Councilmember
Anita Kitchen, Councilmember
Ed Lyons, Councilmember
Glenn Otto, Councilmember
Richard Shaw, Councilmember (Arrived at 6:23 P.M.)
Don Webb, Councilmember
Jeff Gore, Mayor

Guests Present:

City Staff Present: Bryan Chodkowski, Mike Gray, Russ Bergman, Katie, Wahl, Aaron Sorrell, and Anthony Rodgers.

Topics of Discussion:

- City Manager Report
- Roadway Guardrail Repair/Replacement – Award Contract
- Increase Not To Exceed Amount – Phoenix Safety Outfitters – Fire Division Safety Equipment

- Mardi Gras Drive Area – Water Main Replacement – Solicit Bids
- 2023 Water Main Replacement Projects – Engineering Design
- Stormwater Fees
- City Of Fairborn – Wastewater Services Contract
- Case RZ 22-17 – Michael Skilwies – Rezoning/Replat – 9416 Taylorsville Road
- Adopting Ordinance – City Code – Traffic Code/General Offenses Code
- Board And Commission Appointments
- Ordinance To Appropriate Property – Well Field

1. **Call Meeting To Order/Roll Call**

Mayor Jeff Gore convened the Council Work Session at 5:59 P.M.

Anthony Rodgers took Roll Call.

2. **Approval of Minutes**

The following minutes were approved unanimously at the beginning of this meeting:

- August 16, 2022

There were no changes or corrections to these minutes as submitted.

This Council Work Session was recorded by the City and the recording of this meeting will be posted to the City's website and will also be maintained by the City consistent with the City's records retention schedule.

3. **Work Session Topics Of Discussion**

City Manager Report/Water Infrastructure Update

Bryan Chodkowski said City Staff are working to set up a water voucher program for City residents affected by water main breaks. He said there will be a presentation on the water voucher program at an upcoming Council Work Session. He said City Staff have scheduled a meeting with the owners of the Huber Centre for discussions. He said the Marigold Festival will take place at the Eichelberger Amphitheater on September 10, 2022. He said the Kroger Aquatic Center is now closed for the 2022 season. He said 2023 season passes for the Kroger Aquatic Center are on sale for the next two weeks at a 40% discount. Bryan Chodkowski said City Staff are working to obtain proposals from vendors for an asset management program for the City. He said City Staff have authorized the U.S. Army Corps of Engineers to proceed with an assessment of the land on Center Point 70 Boulevard for use for the proposed new Public Works Division facility.

Roadway Guardrail Repair/Replacement – Award Contract

Mike Gray distributed information and proposed legislation to authorize the award of a contract to provide for the repair and replacement of roadway guardrail (see attached). He said the Public Works Division requests the authorization to award a contract to Lake Erie Construction Company Highway Improvement Contractors for services related to providing repair and replacement of roadway guardrail at a cost not to exceed $70,000.

After discussion, the City Council agreed to recommend approval of the proposed legislation to authorize the award of a contract to provide for the repair and replacement of roadway guardrail and requested that the proposed legislation be placed on the agenda at the September 12, 2022 City Council Meeting for a first reading as non-emergency legislation with adoption of the legislation at the September 12, 2022 City Council Meeting.

Increase Not To Exceed Amount – Phoenix Safety Outfitters – Fire Division Safety Equipment

Bryan Chodkowski distributed information and proposed legislation to increase the not to exceed amount with Phoenix Safety Outfitters for the purchase of firefighting protective equipment for the Fire Division (see attached). He said the Huber Heights Fire Division is requesting that the spending limit for 2022 be increased from $50,000 to $75,000 for Phoenix Safety Outfitters for equipment and supplies related to five year gear replacements as well as the purchase of equipment and supplies related to the hiring of new personnel.

After discussion, the City Council agreed to recommend approval of the proposed legislation to increase the not to exceed amount with Phoenix Safety Outfitters for the purchase of firefighting protective equipment for the Fire Division and requested that the proposed legislation be placed on the agenda at the September 12, 2022 City Council Meeting for a first reading as non-emergency legislation with adoption of the legislation at the September 12, 2022 City Council Meeting.

Mardi Gras Drive Area – Water Main Replacement – Solicit Bids

Russ Bergman distributed information and proposed legislation to solicit bids from qualified firms for the construction of the Mardi Gras Drive Water Main Replacement Project (see attached). He said this legislation will allow the City Manager to solicit bids for the Mardi Gras Drive Area Water Main Replacement Project. He said the City has applied through the Ohio Public Works Commission (OPWC) and has received OPWC funding for the construction of this project and 49.4% of the cost of the project will be reimbursed from the grant. He said the Water Fund will be utilized to cover the City's local share.

After discussion, the City Council agreed to recommend approval of the proposed legislation to solicit bids from qualified firms for the construction of the Mardi Gras Drive Water Main Replacement Project and requested that the proposed legislation be placed on the agenda at the September 12, 2022 City Council Meeting for a first reading as non-emergency legislation with adoption of the legislation at the September 12, 2022 City Council Meeting.

2023 Water Main Replacement Projects – Engineering Design

Russ Bergman distributed information and proposed legislation to solicit a Request For Proposals (RFP) from qualified engineering consulting firms to provide engineering design for the 2023 Water Main Replacement Project (see attached). He said this legislation will allow the City to solicit proposals from various engineering firms to design the 2023 Water Main Replacement Projects. He said the projects includes the replacement of water main, water valves, fire hydrants and appurtenances on the following streets:

Hubbard Drive from Handel Court to 6827 Hubbard Drive
Chesham Drive from Cruxten Drive to Tilbury Road
Sandbury Drive from Chesham Drive to Queensbury Road
Tewkesbury Drive from Tomberg Street to Tilbury Road
Hartwick Lane from Corsica Drive to Rosebury Drive
Alter Road from Celestine Street to Menlo Way
Longford Road from Harshmanville Road to Montague Road
Storck Drive from Farmborough Drive to Rosebury Drive

He said it is necessary to employ a qualified consulting engineering and land surveying firm in order to prepare plans for these needed improvements. Once the proposals have been received and evaluated, he said City Staff will return to Council for authorization to award the contract.

After discussion, the City Council agreed to recommend approval of the proposed legislation to solicit a Request For Proposals (RFP) from qualified engineering consulting firms to provide engineering design for the 2023 Water Main Replacement Project and requested that the proposed legislation be placed on the agenda at the September 12, 2022 City Council Meeting for a first reading as non-emergency legislation with adoption of the legislation at the September 12, 2022 City Council Meeting.

Stormwater Fees

Russ Bergman distributed information and proposed legislation to amend Section 922.27 of the Huber Heights Codified Ordinances to increase the monthly and/or annual stormwater sewer rate beginning November 1,

2022 (see attached). He said this legislation is to increase the stormwater sewer fee for residential and commercial properties within the City from $2.00 to $3.50 per Equivalent Residential Unit (ERU) effective November 1, 2022. He said this proposed increase no longer includes a Consumer Price Index (CPI) annual adjustment to the stormwater sewer fee.

After discussion, the City Council agreed to recommend approval of the proposed legislation to increase the monthly and/or annual stormwater sewer rate beginning November 1, 2022 and requested that the proposed legislation be placed on the agenda at the September 12, 2022 City Council Meeting for a first reading as non-emergency legislation with a second reading and adoption of the legislation at the September 26, 2022 City Council Meeting.

City Of Fairborn – Wastewater Services Contract

Bryan Chodkowski distributed information and proposed legislation to authorize a contract for wastewater collection and treatment services with the City of Fairborn (see attached). He said Council's consideration of this agreement is the next step in the East Sewer Main Extension Project. He said this agreement would provide wastewater collection and treatment services to the eastern portions of the City of Huber Heights via the City of Fairborn. While this agreement will initially service the Center Point 70 Business Park, he said the agreement has broader positive implications for the City. He said this agreement will help to recruit business development into the City along the State Route 4 corridor and opens up more than 3,000 acres of land to wastewater services in the future.

After discussion, the City Council agreed to recommend approval of the proposed legislation to authorize a contract for wastewater collection and treatment services with the City of Fairborn and requested that the proposed legislation be placed on the agenda at the September 12, 2022 City Council Meeting for a first reading as non-emergency legislation with adoption of the legislation at the September 12, 2022 City Council Meeting.

Case RZ 22-17 – Michael Skilwies – Rezoning/Replat – 9416 Taylorsville Road

Bryan Chodkowski distributed information and proposed legislation to approve a rezoning from Agricultural (A) to Planned Industrial (PI) and a lot split for the property located at 9416 Taylorsville Road in Case RZ 22-17 (see attached). He said the applicant, Michael Skilwies, is requesting a replat and rezoning of 3.55 acres from Agriculture (A) to Planned Industrial (PI). He said the ordinance to approve a replat and rezoning in Case RZ 22-17 is scheduled for a third reading at the September 12, 2022 City Council Meeting.

Aaron Sorrell distributed a memorandum on the background and options available to the City regarding in Case RZ 22-17 (see attached).

After discussion, the City Council agreed to recommend the proposed legislation to approve a rezoning from Agricultural (A) to Planned Industrial (PI) and a lot split for the property located at 9416 Taylorsville Road in Case RZ 22-17 be placed on the agenda at the September 12, 2022 City Council Meeting for a third reading as non-emergency legislation with a motion to postpone action indefinitely on the proposed legislation to a fourth reading at the January 9, 2023 City Council Meeting. The City Council also agreed to discuss text amendment options that could impact Case RZ 22-17 as recommended by Aaron Sorrell at an upcoming Council Work Session.

Adopting Ordinance – City Code – Traffic Code/General Offenses Code

Anthony Rodgers distributed information and proposed legislation to amend certain sections of the Traffic Code and the General Offenses Code of the Huber Heights Codified Ordinances (see attached). He said this ordinance is to adopt amendments to the General Offenses Code and the Traffic Code of the City Code for the period of August 2, 2021 to July 14, 2022. He said these amendments are based on a legal review of the Ohio Revised Code by Municode. He said these proposed amendments have also been reviewed by the Law Director.

After discussion, the City Council agreed to recommend approval of the proposed legislation to amend certain sections of the Traffic Code and the General Offenses Code of the Huber Heights Codified Ordinances

and requested that the proposed legislation be placed on the agenda at the September 12, 2022 City Council Meeting for a first reading as non-emergency legislation with a second reading and adoption of the legislation at the September 26, 2022 City Council Meeting.

Board And Commission Appointments

Anthony Rodgers distributed information regarding an appointment to the Board of Zoning Appeals (see attached). He said it was the recommendation of City's interview panel to appoint Paul Schaeffer to the Board of Zoning Appeals for a term ending on January 31, 2024. He said a background check on Mr. Schaeffer was completed by Human Resources.

After discussion, the City Council agreed to recommend approval of the appointment of Paul Schaeffer to the Board of Zoning Appeals for a term ending on January 31, 2024 and requested that the necessary motion be prepared and placed on the agenda for approval at the September 12, 2022 City Council Meeting.

Ordinance To Appropriate Property – Well Field

Bryan Chodkowski distributed information and proposed legislation to direct the appropriation of real estate property for the City's well field (see attached).

Bryan Chodkowski said this item could be discussed in Executive Session by the City Council.

Executive Session –To Consider The Sale Or Other Disposition Of Unneeded Property By Competitive Bid/For Discussions With An Attorney For The City Concerning Disputes That Are The Subject Of Imminent Court Action

Don Webb made a motion to go into Executive Session to consider the sale or other disposition of unneeded property by competitive bid and for discussions with an attorney for the City concerning disputes that are the subject of imminent court action at 7:22 P.M. Anita Kitchen seconded the motion. On a call of the vote, Ms. Baker, Mr. Campbell, Mrs. Byrge, Mr. Otto, Mr. Lyons, Mrs. Kitchen, Mr. Webb, and Mr. Shaw voted yea; none

voted nay. The motion passed 8-0. The Council Work Session went into Executive Session at 7:22 P.M.

The Council Work Session adjourned from Executive Session at 9:03 P.M.

There were no actions taken or decisions made by the City Council following the Executive Session.

Other Business

There was no other business conducted at the Council Work Session.

4. **Adjournment**

Mayor Jeff Gore adjourned the Council Work Session at 9:04 P.M.

AI-8617 **Topics of Discussion** B.

Council Work Session

Meeting Date: 09/06/2022

Roadway Guardrail Repair/Replacement - Award Contract

Submitted By: Linda Garrett

Department: Public Works **Division:** Public Works

Council Committee Review?: Council Work Session **Date(s) of Committee Review:** 09/06/2022

Audio-Visual Needs: None **Emergency Legislation?:** No

Motion/Ordinance/ Resolution No.:

Agenda Item Description or Legislation Title

Roadway Guardrail Repair/Replacement - Award Contract

Purpose and Background

The Public Works Division requests the authorization to award a contract for services related to providing repair and replacement of roadway guardrail.

Fiscal Impact

Source of Funds: Public Works Division Budget

Cost: $70,000

Recurring Cost? (Yes/No): No

Funds Available in Current Budget? (Yes/No): No

Financial Implications:

Attachments

Resolution

CITY OF HUBER HEIGHTS
STATE OF OHIO

RESOLUTION NO. 2022-R-

AUTHORIZING THE CITY MANAGER TO AWARD A CONTRACT FOR SERVICES RELATED TO PROVIDING REPAIR AND REPLACEMENT OF ROADWAY GUARDRAIL.

WHEREAS, the City of Huber Heights requires services for the repair and replacement of roadway guardrail; and

WHEREAS, the City Council under Resolution No. 2022-R-7126 authorized the solicitation of bids for services for the repair and replacement of roadway guardrail on May 9, 2022; and

WHEREAS, bids for services for the repair and replacement of roadway guardrail were due on May 27, 2022, and no bids were received by the City; and

WHEREAS, since the City received no bids for services for the repair and replacement of roadway guardrail, City Staff directly solicited bids from a vendor to provide these services; and

WHEREAS, the cost for such services is estimated at a not to exceed amount of $70,000.00.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Huber Heights, Ohio that:

Section 1. The City Manager is hereby authorized to award a contract for services for the repair and replacement of roadway guardrail in the City to Lake Erie Construction Company Highway Improvement Contractors, 25 South Norwalk Road, P.O. Box 777, Norwalk, Ohio, 44857 in an amount not to exceed $70,000.00, subject to the availability of funds. This contract award shall be for project completion

Section 2. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its Committees that resulted in such formal action were in meetings open to the public and in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 3. This Resolution shall go into effect upon its passage as provided by law and the Charter of the City of Huber Heights.

Passed by Council on the _____ day of _____, 2022;
_____ Yeas; _____ Nays.

Effective Date:

AUTHENTICATION:

_____ _____
Clerk of Council Mayor

_____ _____
Date Date

AI-8622 **Topics of Discussion** C.

Council Work Session

Meeting Date: 09/06/2022

Increase Not to Exceed Amount - Phoenix Outfitters - Fire Division Safety Equipment

Submitted By: Keith Knisley

Department: Fire

Council Committee Review?: Council Work Session **Date(s) of Committee Review:** 09/06/2022

Audio-Visual Needs: None **Emergency Legislation?:** No

Motion/Ordinance/ Resolution No.:

Agenda Item Description or Legislation Title

Increase Not to Exceed Amount - Phoenix Outfitters - Fire Division Safety Equipment

Purpose and Background

The Huber Heights Fire Division is requesting that the spending limit for 2022 be increased from $50,000 to $75,000 for Phoenix Safety Outfitters for equipment and supplies related to 5 year gear replacements as well as the purchase of equipment and supplies related to the hiring of new personnel.

Fiscal Impact

Source of Funds: N/A

Cost: N/A

Recurring Cost? (Yes/No): N/A

Funds Available in Current Budget? (Yes/No): N/A

Financial Implications:

Attachments

Resolution

CITY OF HUBER HEIGHTS
STATE OF OHIO

RESOLUTION NO. 2022-R-

TO INCREASE THE NOT TO EXCEED AMOUNT FOR THE PURCHASE OF FIREFIGHTING PROTECTIVE EQUIPMENT AND CLOTHING WITH PHOENIX SAFETY OUTFITTERS FOR CALENDAR YEAR 2022 AND WAIVING THE COMPETITIVE BIDDING REQUIREMENTS.

WHEREAS, it is necessary to purchase and replace firefighting protective equipment and clothing for the Fire Division throughout a calendar year; and

WHEREAS, the annual purchase of firefighting protective equipment and clothing from Phoenix Safety Outfitters will exceed the authorized spending limit of $50,000.00 by an additional $25,000.00.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Huber Heights, Ohio that:

Section 1. The City Manager is hereby authorized to increase the not to exceed amount for Phoenix Safety Outfitters by $25,000.00 to a new total of $75,000.00 for the purchase of firefighting protective equipment and clothing to cover all additional expenses throughout Calendar Year 2022 as needed. These purchases are specifically for newly hired employees and as part of the Fire Division's annual replacement program.

Section 2. The competitive bidding requirements are hereby waived consistent with appropriate provisions of the Huber Heights City Charter in Administrative Code Section 171.12(a)(2).

Section 3. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its Committees that resulted in such formal action were in meetings open to the public and in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 4. This Resolution shall go into effect upon its passage as provided by law and the Charter of the City of Huber Heights.

Passed by Council on the ___day of _____, 2022;
_____ Yeas; _____ Nays.

Effective Date:

AUTHENTICATION:

_____ _____
Clerk of Council Mayor

_____ _____
Date Date

AI-8630 **Topics of Discussion** D.

Council Work Session

Meeting Date: 09/06/2022

Mardi Gras Drive Area - Water Main Replacement - Solicit Bids

Submitted By: Hanane Eisentraut

Department:	Engineering	**Division:**	Engineering
Council Committee Review?:	Council Work Session	**Date(s) of Committee Review:**	09/06/2022
Audio-Visual Needs:	None	**Emergency Legislation?:**	No

Motion/Ordinance/ Resolution No.:

Agenda Item Description or Legislation Title

Mardi Gras Drive Area - Water Main Replacement - Solicit Bids

Purpose and Background

This legislation will allow the City Manager to solicit bids for the Mardi Gras Drive Area Water Main Replacement Project. The City of Huber Heights has applied through Ohio Public Works Commission (OPWC) and has received OPWC funding for the construction of this project - 49.4% of the cost will be reimbursed from the grant. The Water Fund will be utilized to cover the City's local share.

Fiscal Impact

Source of Funds:	N/A
Cost:	N/A
Recurring Cost? (Yes/No):	No
Funds Available in Current Budget? (Yes/No):	Yes
Financial Implications:	

Attachments

Map

Resolution



City of Huber Heights

CITY OF HUBER HEIGHTS
STATE OF OHIO

RESOLUTION NO. 2022-R-

AUTHORIZING THE CITY MANAGER TO SOLICIT, ADVERTISE AND RECEIVE BIDS FROM QUALIFIED FIRMS FOR THE CONSTRUCTION OF THE MARDI GRAS DRIVE AREA WATER MAIN REPLACEMENT PROJECT.

WHEREAS, City Staff have identified certain streets within the City including Mardi Gras Drive, Parish Court, and Charlesgate Road from Belle Chase to Old Troy Pike which are in urgent need of water line replacement; and

WHEREAS, the City of Huber Heights has applied to the Ohio Public Works Commission and has received Issue II funding for the construction of the Mardi Gras Drive Area Water Main Replacement Project; and

WHEREAS, engineering plans, specifications and cost estimates have been completed by Cosler Engineering; and

WHEREAS, Council has determined to proceed with this project during the 2022 construction season including the replacement of water lines, fire hydrants and appurtenances.

NOW, THEREFORE BE IT RESOLVED by the City Council of Huber Heights, Ohio that:

Section 1. The City Manager is hereby authorized to solicit, advertise and receive responses from qualified firms for the construction of the Mardi Gras Drive Area Water Main Replacement Project at a cost not to exceed $550,000.00

Section 2. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its Committees that resulted in such formal action were in meetings open to the public and in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 3. This Resolution shall go into effect upon its passage as provided by law and the Charter of the City of Huber Heights.

Passed by Council on the _____ day of _____ , 2022;
_____ Yeas; _____ Nays.

Effective Date:

AUTHENTICATION:

_____ _____
Clerk of Council Mayor

_____ _____
Date Date

AI-8631 **Topics of Discussion** E.

Council Work Session

Meeting Date: 09/06/2022

2023 Water Main Replacement Projects - Engineering Design

Submitted By: Hanane Eisentraut

Department: Engineering **Division:** Engineering

Council Committee Review?: Council Work Session **Date(s) of Committee Review:** 09/06/2022

Audio-Visual Needs: None **Emergency Legislation?:** No

Motion/Ordinance/ Resolution No.:

Agenda Item Description or Legislation Title

2023 Water Main Replacement Projects - Engineering Design

Purpose and Background

This legislation will allow the City to solicit proposals from various engineering firms to design the 2023 Water Main Replacement Projects.

The project includes the replacement of water main, water valves, fire hydrants and appurtenances on the following streets:

Hubbard Drive from Handel Court to 6827 Hubbard Drive
Chesham Drive from Cruxten Drive to Tilbury Road
Sandbury Drive from Chesham Drive to Queensbury Road
Tewkesbury Drive from Tomberg Street to Tilbury Road
Hartwick Lane from Corsica Drive to Rosebury Drive
Alter Road from Celestine Street to Menlo Way
Longford Road from Harshmanville Road to Montague Road
Storck Drive from Farmborough Drive to Rosebury Drive

It is necessary to employ a qualified consulting engineering and land surveying firm in order to prepare plans for these needed improvements. Once the proposals have been received and evaluated, City Staff will return to Council for authorization to award the contract.

Fiscal Impact

Source of Funds: Water Fund

Cost: N/A

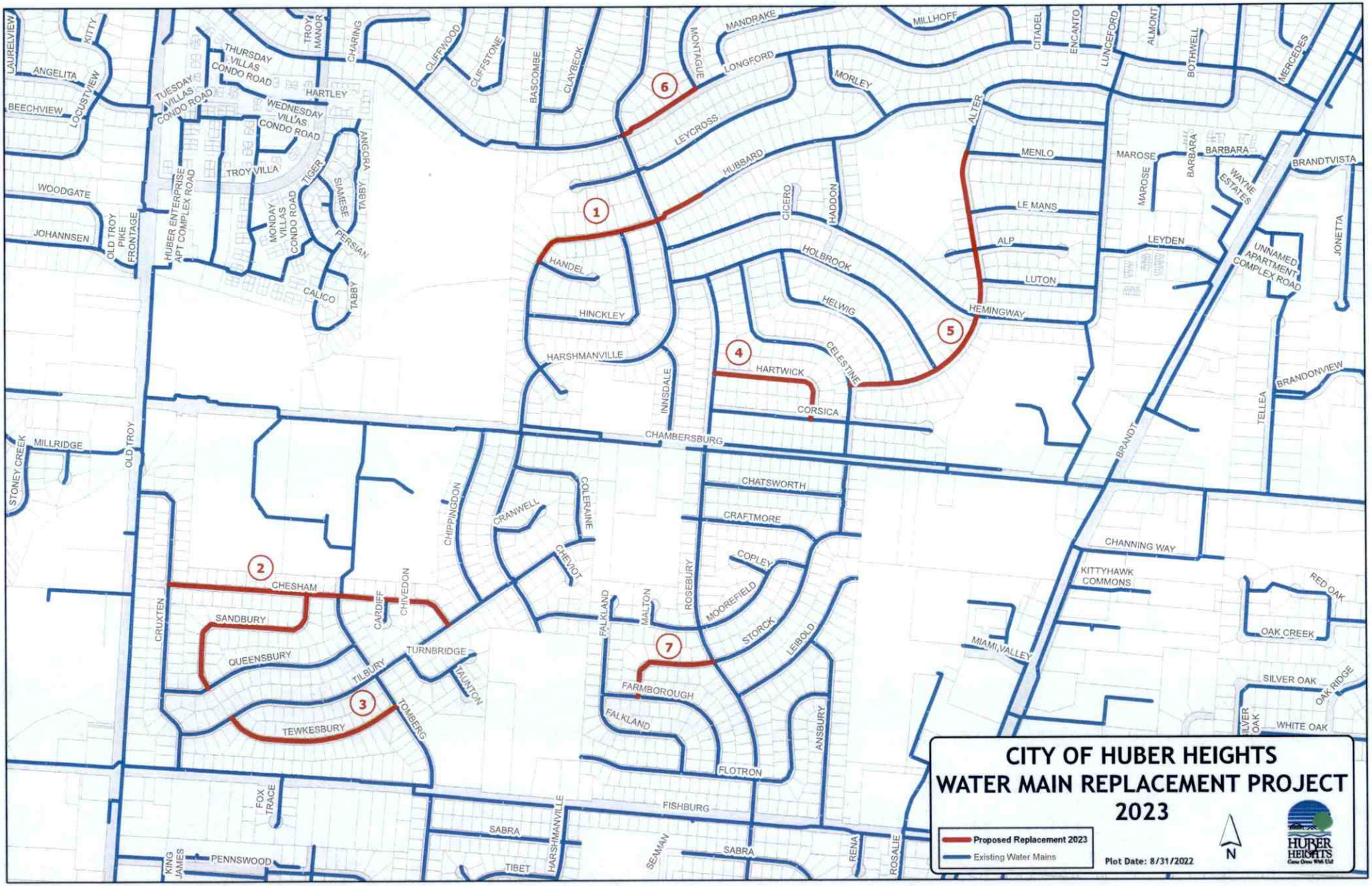
Recurring Cost? (Yes/No): No

Funds Available in Current Budget? (Yes/No): Yes

Financial Implications:

Attachments

Map
Resolution


CITY OF HUBER HEIGHTS
WATER MAIN REPLACEMENT PROJECT
2023
Proposed Replacement 2023
Existing Water Mains
Plot Date: 8/31/2022
N
1
2
3
4
5
6
7
LAURELVIEW
KITTY
ANGELITA
BEECHVIEW
LOCUSTVIEW
WOODGATE
JOHANNSEN
OLD TROY PIKE FRONTAGE
HUBER ENTERPRISE APT COMPLEX ROAD
THURSDAY VILLAS CONDO ROAD
TUESDAY VILLAS CONDO ROAD
WEDNESDAY VILLAS CONDO ROAD
MONDAY VILLAS CONDO ROAD
TROY VILLA
HARTLEY
TROY MANOR
CHARING
TIGER
SIAMESE
PERSIAN
CALICO
ANGORA
TABBY
CLIFFWOOD
CLIFFSTONE
BASCOMBE
CLAYBECK
MONTAGUE
MANDRAKE
LONGFORD
LEYCROSS
HUBBARD
HANDEL
HINCKLEY
HARSHMANVILLE
CICERO
HADDON
HOLBROOK
HELWIG
CELESTINE
HARTWICK
CORSICA
HEMINGWAY
MORLEY
ALTER
MILLHOFF
CITADEL
ENCANTO
LUNCEFORD
ALMONT
BOTHWELL
MERCEDES
MENLO
LE MANS
ALP
LUTON
MAROSE
BARBARA
WAYNE ESTATES
BRANDTVISTA
LEYDEN
UNNAMED APARTMENT COMPLEX ROAD
JONETTA
BRANDONVIEW
TELLEA
BRANDT
CHAMBERSBURG
INNSDALE
STONEY CREEK
MILLRIDGE
OLD TROY
CHIPPINGDON
CRANWELL
COLERAINE
CHEVIOT
CHATSWORTH
CRAFTMORE
COPLEY
MOOREFIELD
STORCK
LEIBOLD
ROSEBURY
FALKLAND
MALTON
CHESHAM
CARDIFF
CHIVEDON
SANDBURY
QUEENSBURY
TILBURY
TURNBRIDGE
TAUNTON
TOMBERG
TEWKESBURY
CRUXTEN
FARMBOROUGH
FALKLAND
FLOTRON
ANSBURY
CHANNING WAY
KITTYHAWK COMMONS
MIAMI VALLEY
RED OAK
OAK CREEK
SILVER OAK
OAK RIDGE
WHITE OAK
FISHBURG
SABRA
TIBET
HARSHMANVILLE
SEAMAN
RENA
ROSALIE
FOX TRACE
KING JAMES
PENNSWOOD

CITY OF HUBER HEIGHTS
STATE OF OHIO

RESOLUTION NO. 2022-R-

AUTHORIZING THE CITY MANAGER TO SOLICIT REQUESTS FOR PROPOSALS (RFP) FROM QUALIFIED ENGINEERING CONSULTING FIRMS TO PROVIDE ENGINEERING DESIGN FOR THE 2023 WATER MAIN REPLACEMENT PROJECT.

WHEREAS, City Staff have identified water lines within the City which are in urgent need of replacement; and

WHEREAS, it is necessary to obtain outside engineering services to design the 2023 Water Main Replacement Project; and

WHEREAS, substantial interest has been expressed by various consulting engineering firms in the design of these improvements; and

WHEREAS, Council has determined to proceed with this project during the 2023 construction season; and

WHEREAS, the Water Fund is available to cover the cost of this work.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Huber Heights, Ohio that:

Section 1. The City Manager is hereby authorized to solicit a Requests For Proposals (RFP) for the engineering of improvements to the 2023 Water Main Replacement Project

Section 2. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its Committees that resulted in such formal action were in meetings open to the public and in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 3. This Resolution shall go into effect upon its passage as provided by law and the Charter of the City of Huber Heights.

Passed by Council on the _____ day of _____ , 2022;
_____ Yeas; _____ Nays.

Effective Date:

AUTHENTICATION:

_____ _____
Clerk of Council Mayor

_____ _____
Date Date

AI-8634 **Topics of Discussion** F.

Council Work Session

Meeting Date: 09/06/2022

Stormwater Fees

Submitted By: Hanane Eisentraut

Department: Engineering **Division:** Engineering

Council Committee Review?: Council Work Session **Date(s) of Committee Review:** 09/06/2022

Audio-Visual Needs: None **Emergency Legislation?:** No

Motion/Ordinance/ Resolution No.:

Agenda Item Description or Legislation Title

Stormwater Fees

Purpose and Background

This legislation is to increase the stormwater fee for residential and commercial properties within the City from $2.00 to $3.50 per Equivalent Residential Unit (ERU).

Fiscal Impact

Source of Funds: N/A

Cost: N/A

Recurring Cost? (Yes/No): N/A

Funds Available in Current Budget? (Yes/No): N/A

Financial Implications:

Attachments

Ordinance

CITY OF HUBER HEIGHTS
STATE OF OHIO

ORDINANCE NO. 2022-0-

AMENDING SECTION 922.27 OF THE CODIFIED ORDINANCES OF HUBER HEIGHTS BY INCREASING THE MONTHLY AND/OR ANNUAL STORMWATER SEWER RATE BEGINNING NOVEMBER 1, 2022.

WHEREAS, Section 922.27 of the Codified Ordinances of the City of Huber Heights sets forth the stormwater sewer rate at $2.00 per Equivalent Residential Unit (ERU); and

WHEREAS this rate has been in effect since 2002; and

WHEREAS, City Council has determined it is necessary to increase the stormwater sewer rate across the board to $3.50 per ERU beginning November 1, 2022.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Huber Heights, Ohio that:

Section 1. Section 922.27 of the Codified Ordinances of the City of Huber Heights is hereby amended to read as follows:

922.27 - Monthly charge per equivalent residential unit.

Effective November 1, 2022, the monthly charge per ERU shall be $3.50.

Section 2. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its Committees that resulted in such formal action were in meetings open to the public and in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 3. This Ordinance shall go into effect upon its passage as provided by law and the Charter of the City of Huber Heights.

Passed by Council on the _____ day of _____, 2022;
_____ Yeas; _____ Nays.

Effective Date:

AUTHENTICATION:

_____ _____
Clerk of Council Mayor

_____ _____
Date Date

AI-8608 **Topics of Discussion** G.

Council Work Session

Meeting Date: 09/06/2022

City of Fairborn - Wastewater Services Contract

Submitted By: Bryan Chodkowski

Department: Economic Development

Council Committee Review?: Council Work Session **Date(s) of Committee Review:** 09/06/2022

Audio-Visual Needs: None **Emergency Legislation?:** No

Motion/Ordinance/ Resolution No.:

Agenda Item Description or Legislation Title

City of Fairborn - Wastewater Services Contract

Purpose and Background

Council's consideration of this agreement is the next step in the East Sewer Main Extension Project. This agreement would provide wastewater collection and treatment services to the eastern portions of the City of Huber Heights via the City of Fairborn. While this agreement will initially service the Center Point 70 Business Park, the agreement has broader positive implications for the City. This agreement will help to recruit business development into the City along the State Route 4 corridor and opens up more than 3,000 acres of land to largely gravity-flow wastewater services in the future. This additional service option also has potential to lessen capacity concerns at Tri-Cities Wastewater Authority for these same services.

Fiscal Impact

Source of Funds: Sewer Fund

Cost: $12,000(+)

Recurring Cost? (Yes/No): Yes

Funds Available in Current Budget? (Yes/No): N/A

Financial Implications:

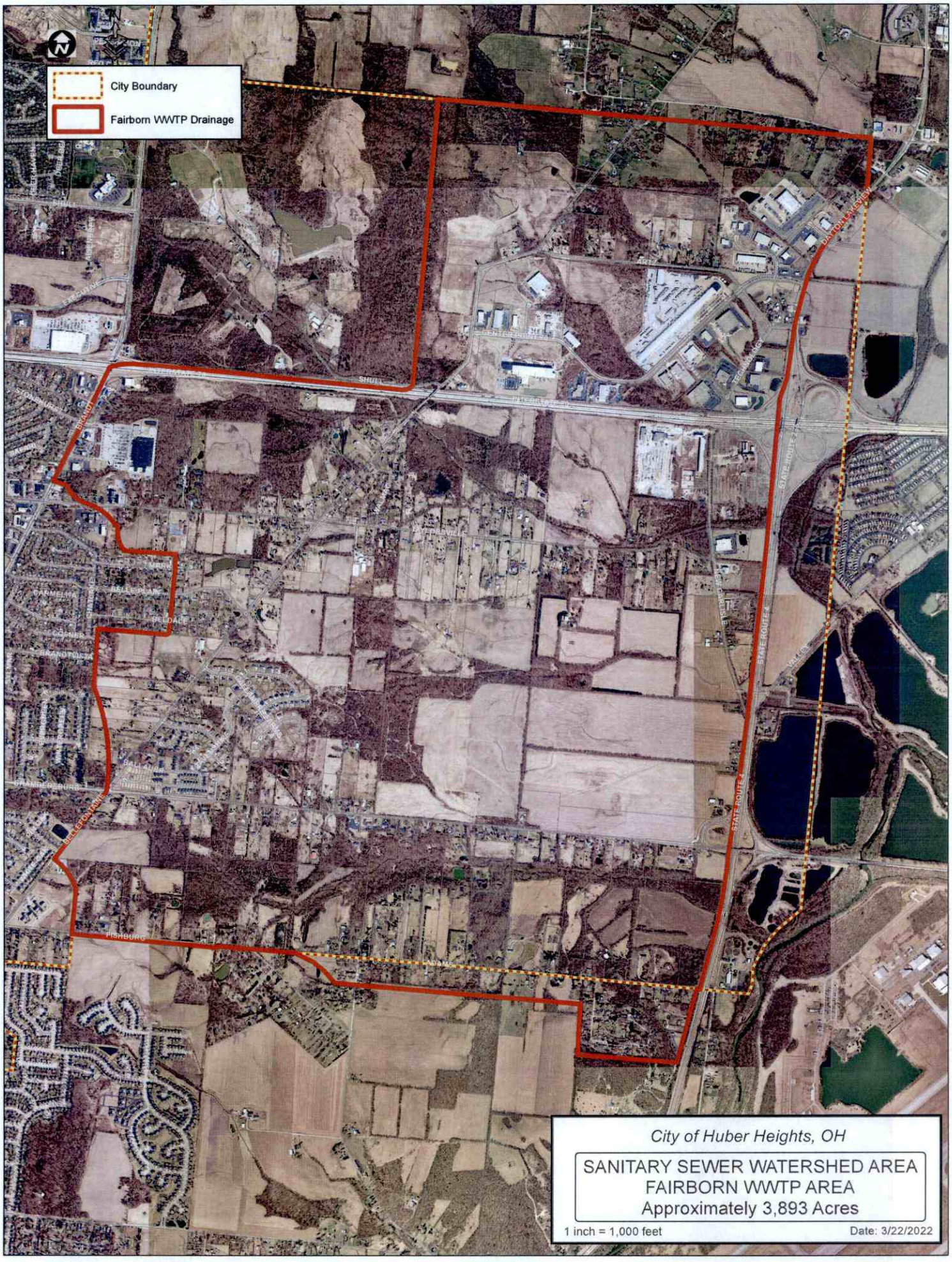
Once in effect sometime during 2023, this agreement is structured to provide the City a "hands-off" approach to the daily operations and maintenance of this services.

Attachments

Map

Resolution

Exhibit A


City Boundary
Fairborn WWTP Drainage
City of Huber Heights, OH
SANITARY SEWER WATERSHED AREA
FAIRBORN WWTP AREA
Approximately 3,893 Acres
1 inch = 1,000 feet
Date: 3/22/2022

CITY OF HUBER HEIGHTS
STATE OF OHIO

RESOLUTION NO. 2022-R-

AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT FOR WASTEWATER COLLECTION AND TREATMENT SERVICES WITH THE CITY OF FAIRBORN.

WHEREAS, the City of Huber Heights seeks to ensure that wastewater collection and treatment services are available to businesses, residents, and landowners east of Bellefontaine Road; and

WHEREAS, the availability of wastewater collection and treatment service east of Bellefontaine Road supports future growth and development of the City along the State Route 4 corridor; and

WHEREAS, the City of Fairborn operates wastewater collection and treatment facilities; and

WHEREAS, the City of Fairborn desires to provide the City of Huber Heights access to their wastewater collection and treatment facilities under certain terms and conditions; and

WHEREAS, the City of Huber Heights desires to utilize the City of Fairborn wastewater collection and treatment facilities under certain terms and conditions.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Huber Heights, Ohio that:

Section 1. The City Manager is hereby authorized to enter into a contract for wastewater collection and treatment services with the City of Fairborn. Said contract shall be substantially similar to Exhibit A, as attached hereto as if incorporated herein, and meet the approval of the Law Director.

Section 2. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its Committees that resulted in such formal action were in meetings open to the public and in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 3. This Resolution shall go into effect upon its passage as provided by law and the Charter of the City of Huber Heights.

Passed by Council on the _____ day of _____, 2022;
_____ Yeas; _____ Nays.

Effective Date:

AUTHENTICATION:

_____ _____
Clerk of Council Mayor

_____ _____
Date Date

EXHIBIT A

WASTEWATER AGREEMENT

This Agreement is made effective on the date of the last to sign below, by and between the City of Huber Heights, Ohio and the City of Fairborn, Ohio.

For good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

1. **Wastewater Connection**. Fairborn hereby grants Huber Heights the privilege of connecting to the Fairborn's Wastewater Treatment Plant System to be known hereafter as WRC and agrees to make its sewer system and wastewater treatment plant available to Huber Heights for use by consumers within the Service Area (defined below). Fairborn shall operate, manage and maintain its wastewater treatment plant and with sufficient capacity to treat all sewage from the Service Area. Huber Heights shall connect to the Fairborn System through a lift station to be located at and in connection to the Fairborn Wastewater Treatment Plant as further described herein.

2. **Area to be Served by Sewer Lines.** The area to be served by the extended sewer lines ("Service Area") is depicted on the drawing attached hereto and made a part hereof, marked Exhibit "A." The extended lines, to be constructed by Huber Heights, may stop at such points in the area to be served as may be determined by Huber Heights. There shall be no requirement that Huber Heights, or subsequent owners of the land, must extend those lines on through the area to be served. The new lines to be constructed are for the benefit of the area to be served. No enlargement of the service area shall be made except through the written mutual consent of the parties, which shall not be unreasonably denied or delayed longer than 18 months.

3. **Term**. The term of this Agreement shall be for an initial term of twenty (20) years and shall be renewed automatically for like terms every twenty (20) years thereafter unless a party shall give advance notice of non-renewal. Said notice shall be given at least three years prior to the proposed non-renewal. No assignment or transfer of this Agreement shall be made without the written consent of both parties.

4. **Plant Capacity**. When the current Fairborn Wastewater Treatment Plant reaches 70% capacity, a joint effort to plan for expansion shall begin. Proportionate share of funding, from engineering to construction, shall be 50% of current flow composition and 50% of projected flow based on a future flow study of both Fairborn and Huber Heights; with said study to be performed by a registered engineer. The costs of expansion that is required due to the increase in flow from Huber Heights will be based upon the proportion of the additional flow. If the expansion is required due to a change in EPA regulations and/or system failures that compel improvements/expansions to the plant absent increased flows, the cost will be based upon the proportion of existing flow.

5. **Unacceptable Sewage**. Any sewage designated as unacceptable by the Fairborn's sewer use regulations as applicable throughout the Fairborn system may be refused or acceptable pre-treatment may be required. Huber Heights shall require that all industrial and commercial dischargers complete a sewage discharge questionnaire. This questionnaire shall be submitted to the Fairborn's Sanitary Engineer for review and approval in order to confirm that the pre-treatment plan to be

proposed by Huber Heights is acceptable to Fairborn. If pre-treatment is necessary Huber Heights shall be responsible for administering a formal pretreatment program which will include providing all necessary assistance in identifying causes for, implementing appropriate processes to, and exercising all authority implementing penalties associated with pre-treatment all to be at Huber Heights sole costs.

6. **Metering of Sewer Use**. A master flow meter shall be installed just before effluent reaches the Fairborn Wastewater Treatment Plant. Fairborn will bill Huber monthly from the master meter at the rate set forth in Fairborn ordinances which provides that the rates for Huber Heights are the same rates residents of Fairborn pay. Huber will have the responsibility to bill individual users relative to the master meter bill paid to Fairborn. Annual Calibration of metering devises will be scheduled by Fairborn but shall be paid by Huber Heights. Huber Heights will schedule the test with a contractor it identifies and forward to Fairborn a copy of test results.

7. **Cost of Construction of Sewer Lines.** Huber Heights shall be solely responsible for construction of all of the extended sewer lines and appurtenances thereto through its employees or its agents, including meters, easements, engineering, and associated costs, (except to the extent Huber Heights is eventually reimbursed by the tap in fees described in this Agreement).

8. **Construction Materials for Sewer Lines.** Huber Heights agrees that all sewers, laterals, connections, and appurtenances which may be constructed under this Agreement (or to tap into lines installed under this Agreement) and permitting relating thereto will be handled by Huber Heights. Fairborn will receive as-built plans and all plans for stations Fairborn will be maintaining.

9. **Easements for Sewer Lines**. Huber Heights shall be solely responsible for obtaining all necessary easements, both temporary and permanent, to construct said extension of utility lines. If Huber Heights is unable to reach agreement with any property owners, Huber Heights may seek to appropriate the land through law. Any such lawsuits will be filed in Huber Heights's name and Huber Heights will be solely responsible for payment of all settlements and all judgments resulting from those lawsuits.

10. **Maintenance of Sewer Lines.** Huber Heights shall maintain the sewer lines that are to be constructed under this Agreement.

11. **Tap Fees for Sewer Lines**. Fairborn hereby waives the usual and customary Tap Fee at the mutually agreed upon reasonable point of connection by Huber Heights. Fairborn shall not be entitled to any tap in fees by individual users within the Service Area, any such tap in fees shall be charged by and retained solely by Huber Heights.

12. **Ownership of Sewer Lines.** The lines to be extended from the connection point at the Fairborn Wastewater Treatment Plant and all appurtenances thereto shall be owned entirely by Huber Heights.

13. **Lift Station.** Fairborn will allow Huber Heights lift station to be interconnect to their plant for access to utilities and general service and maintenance. Fairborn will bill Huber an annual fee of $12,000 for the operation of lift station. This fee shall increase by 5% the first year and then by the actual CPI as determined by the US Bureau of Labor Statistics. Any maintenance outside of the operational fee shall be billed to Huber Heights. Huber Heights will be solely responsible for getting the instillation of utility power including stand by power and all associated fees for operation. Fairborn will add the standby power unit to the annual generator maintenance contract and bill Huber Heights for

its portion for the utility costs and complete maintenance of the lift station. Any operational or maintenance expenses incurred by Fairborn in excess of $12,000 within a calendar year shall be billed directly to Huber. If either Huber Heights or Fairborn decide to end the agreement, Huber Heights shall be solely responsible for the abandonment per EPA requirements and restore the grounds to pre-existing conditions.

14. **General**. The terms of this Agreement shall not be interpreted to impair the security of any bonds, or other obligations secured in part by the sewer collection system. City retains exclusive jurisdiction to plan for the development of the Service Area including such types of development County deems appropriate within the design capacity of the Fairborn Wastewater Treatment Plant. Nothing contained in this Agreement is intended to be interpreted as violating any covenant, trust, term, condition, or responsibility of either Party under any agreement or provision of law relating to or governing in any way the sewage facilities subject to this Agreement. In the event and to the extent that any provision of this Agreement is determined to be beyond the power and authority of the Parties hereto to effect, the Parties agree to seek a modification of this Agreement which such modification will accomplish its general purpose. The determination that any portion of this Agreement is invalid shall not invalidate or impair the force and effect of any part hereof, except to the extent that such other part is wholly dependent for its operation on the portion declared invalid. Nothing in this agreement shall be construed to limit in any manner either city's authority to operate public utilities pursuant to the Ohio Constitution. The Parties agree to execute and deliver such additional documents and to perform such additional acts as may become reasonably necessary to effectuate the transfers contemplated by this Agreement.

IN WITNESS WHEREOF, both the City of Huber Heights and City of Fairborn have approved this Agreement by a duly enacted Resolution, Resolution_____passed on_____20___for Huber Heights and Resolution_____passed on_____20___for Fairborn and have signed the Agreement on the_____day of_____, 2021.

Signature Page Follows

AI-8633 **Topics of Discussion** H.

Council Work Session

Meeting Date: 09/06/2022

Case RZ 22-17 - Michael Skilwies - Rezoning/Replat - 9416 Taylorsville Road

Submitted By: Geri Hoskins

Department:	Planning	**Division:**	Planning
Council Committee Review?:	Council Work Session	**Date(s) of Committee Review:**	07/05/2022 and 07/19/2022 and 09/06/2022
Audio-Visual Needs:	SmartBoard	**Emergency Legislation?:**	No

Motion/Ordinance/ Resolution No.:

Agenda Item Description or Legislation Title

Case RZ 22-17 - Michael Skilwies - Rezoning/Replat - 9416 Taylorsville Road

Purpose and Background

The applicant, Michael Skilwies, is requesting a replat and rezoning of 3.55 acres from Agriculture (A) to Planned Industrial (PI). The ordinance to approve a replant and rezoning in Case RZ 22-17 is scheduled for a third reading at the September 12, 2022 City Council Meeting. This agenda item is to discuss the disposition of Case RZ 22-17.

Fiscal Impact

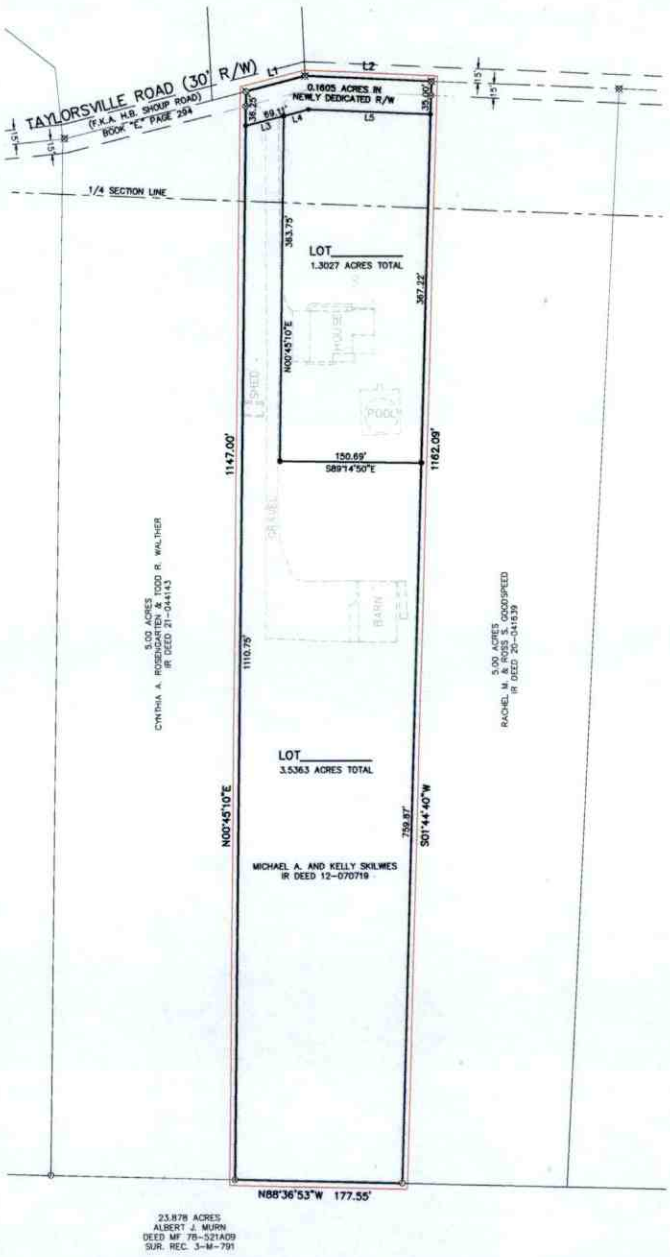
Source of Funds:	N/A
Cost:	N/A
Recurring Cost? (Yes/No):	N/A
Funds Available in Current Budget? (Yes/No):	N/A
Financial Implications:	

Attachments

Drawings
Staff Report
Decision Record
Minutes
Presentation
Ordinance

RECORD PLAN
SKILWIES PLAT NO. 1

AND BEING A PLAT OF A PARCEL
LOCATED IN SECTION 5, TOWN 2, RANGE 8 M.Rs.
CITY OF HUBER HEIGHTS
MONTGOMERY COUNTY, OHIO
CONTAINING 4.9995 ACRES
MAY 4, 2022



GRAPHIC SCALE

50 0 30 60 120 240

(IN FEET)
1 inch = 60 ft.

BASIS OF BEARINGS:
- CENTERLINE OF TAYLORSVILLE ROAD – S87°34'44"E – SUR. VOL. 2014, PAGE 0393

SURVEY REFERENCES:
- ALL DEEDS, PLATS AND SURVEY RECORDS SHOWN ON THE FACE OF THIS SURVEY.

GENERAL NOTES:
- OCCUPATION, IN GENERAL, FITS THE SURVEY.
- ALL MONUMENTS WERE FOUND OR SET IN GOOD CONDITION.

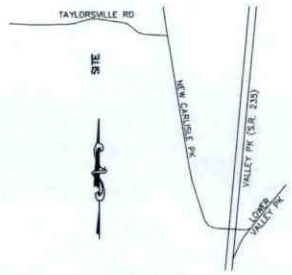
SUPERIMPOSED NOTE:
- ALL OF THE LANDS OF THE DEDICATORS, OF WHICH THIS PLAT IS DRAWN, ARE SHOWN HEREON.

DESCRIPTION:

SITUATE IN SECTION 5, TOWN 2, RANGE 8 M.Rs, CITY OF HUBER HEIGHTS, COUNTY OF MONTGOMERY, STATE OF OHIO AND BEING ALL OF A 5.000 ACRE TRACT CONVEYED TO MICHAEL A. AND KELLY SKILWIES IN DEED 12-070719.

CONTAINING 4.9995 TOTAL ACRES WITH 4.8390 ACRES IN LOTS AND 0.1605 ACRES IN NEWLY DEDICATED RIGHT-OF-WAY.

LINE TABLE		
LINE	BEARING	LENGTH
L1	N75°38'59"E	54.82'
L2	S87°34'44"E	135.13'
L3	N75°38'59"E	41.43'
L4	N75°38'59"E	27.68'
L5	S87°34'44"E	130.38'



VICINITY MAP
(NO SCALE)

LOT ACREAGE BREAKDOWN
4.8390 ACRES IN LOTS
0.1605 ACRES IN DEDICATED R/W
4.9995 ACRES TOTAL

SYMBOL LEGEND	
⊠	FOUND RAILROAD SPIKE
½	FOUND PK/MAG NAIL
○	FOUND 5/8" IRON PIN
⊙	FOUND 5/8" IRON PIN W/"HALEY-DUSA" CAP
Ø	SET MAG NAIL
●	SET 5/8" IRONP IN W/"HALEY-DUSA" CAP

DEDICATION:

We the undersigned, being all the owners and lien holders of the lands herein subdivided, do hereby acknowledge the making and signing of this instrument to be our voluntary act and deed and do hereby dedicate the street and reserve the easements as shown within the plat to the public use forever. New easements shown on the within plat are reserved for the construction, operation, maintenance, repair and replacement of water, sewer, gas, electric, telephone or other utility lines or services and for the express privileges of removing any and all trees or other obstructions to the free use of said utilities, and for providing ingress and egress from the premises for said purposes, and are to be maintained as such forever.

OWNERS:

WITNESSES:

Print Name:_____ MICHAEL A. SKILWIES

Print Name:_____ KELLY SKILWIES

Michael A. Skilwies, Owner, being duly sworn, says that all persons and corporations, to the best of his knowledge, interested in this dedication, either as owners or lien holders, have united in its execution.

_____
MICHAEL A. SKILWIES

In testimony whereof, I hereunto set my hand and notary seal on the day and date above written.

_____
NOTARY PUBLIC _____
MY COMMISSION EXPIRES _____

CERTIFICATION:

I hereby certify that this plat was prepared in accordance with Ohio Administrative Code Chapter 4733.37 Standards for Surveys and also conforms to the Ohio Revised Code Chapter 711 for Record Plans and was conducted under my supervision based on field work in March of 2022. All measurements are correct and monuments are to be set on all lot corners as shown.

_____
Thomas E. Dusa, P.S.
OHIO LICENSE NO. S-7143

APPROVED FOR DESCRIPTION

_____ 2022-0178RE
ENGINEER OF MONTGOMERY COUNTY JOB NO.

_____ _____
CHECKED BY DATE

PLANNING COMMISSION:
Approved by the City of Huber Heights Planning Commission on this_____day of_____, 20___.

_____
By:_____

STATE OF OHIO, COUNTY OF MONTGOMERY, SS:

Be it remembered that on this _____day of _____, 2022, before me the undersigned, a notary public in and for said State of Ohio, personally came Michael A. and Kelly Skilwies, Owners, and acknowledged the signing and execution of the within plat to be their voluntary act and deed.

In testimony whereof, I hereunto set my hand and notary seal on the day and date above written.

_____
NOTARY PUBLIC _____
MY COMMISSION EXPIRES _____

PREPARED BY:
Haley–Dusa
Engineering & Surveying Group, LLC
270 Regency Ridge Drive, Suite 203
Dayton, Ohio 45459
Phone: (937) 439–4300 Fax: (937) 439–2005
Email: haleydusa@haleydusa.com
Website: www.haleydusa.com

Scale: 1"=60'	Drawn: SBM	Checked: TED
Date: 05-04-2022	Job No. S4916	

Memorandum

Staff Report for Meeting of May 24, 2022

To: Huber Heights City Planning Commission

From: Aaron K. Sorrell, Interim City Planner
Community Planning Insights

Date: May 18, 2022

Subject: RZ 22-17 Request to Replat and Rezone 3.55 Acres from Agriculture to Planned Industrial

Application dated March 28, 2022

Department of Planning and Zoning City of Huber Heights

APPLICANT/OWNER:	Michael Skilwies – Applicant / Owner
DEVELOPMENT NAME:	N/A
ADDRESS/LOCATION:	9416 Taylorsville Rd.
ZONING/ACREAGE:	A – Agricultural (5 acres)
EXISTING LAND USE:	Residential
ZONING ADJACENT LAND:	Agricultural
REQUEST:	The applicant requests approval of a replat and rezoning of 3.55 acres from Agriculture to Planned Industrial to allow the continued operation of their truck, diesel and heavy equipment repair business.
ORIGINAL APPROVAL:	N/A
APPLICABLE HHCC:	Chapter 1109, 1171, 1177
CORRESPONDENCE:	In Favor – In Opposition –

STAFF ANALYSIS AND RECOMMENDATION:

Overview:
The applicant has been operating a truck and heavy equipment repair business at this location for many years. Based on complaints received in August 2021, Zoning staff-initiated enforcement action on the applicant's business based on the fact that non-farm related truck and heavy equipment repair is not permitted in the Agricultural District. In August 2021 the applicant requested a use variance for the diesel truck and equipment repair operations. The BZA unanimously denied the application at their October 6, 2021 meeting.

The applicant was provided with the lot split and rezoning application shortly after the BZA decision as an alternative path to allow the continued operation of the repair facility. On or about March 28, 2022 Zoning staff filed minor misdemeanor charges for the continued operation of repair facility and the applicant subsequently filed the application for a lot split and rezoning.

Applicable Subdivision and Zoning Regulations
The applicable subdivision regulations include: 1109 Subdivision Design Standards

The appliable zoning chapters include: 1171 General Provisions, 1177 Planned Industrial District. The relevant sections are cited and discussed below:

Chapter 1109 Subdivision Design Standards

1109.01 General statement.

The regulations in Sections 1119.02 to 1109.22, inclusive, shall control the manner in which streets, lots and other elements of a subdivision are arranged on the land. These design controls shall help ensure convenient and safe streets, creation of usable lots, provision of space for public utilities and reservation of land for recreational uses. The planning of attractive and functional neighborhoods shall be promoted, minimizing the undesirable features of unplanned, haphazard growth.

The City Planning Commission has the responsibility for reviewing the design of each future subdivision early in its design development. The Commission shall ensure that all of the requirements of Sections 1109.02 to 1109.22, inclusive, are met.

1109.02 Conformity to development plans and zoning.

The arrangement, character, width and location of all thoroughfares or extensions thereof shall conform with the City's Official Thoroughfare Plan. Thoroughfares not contained in the aforementioned plan shall conform to the recommendation of the City Planning Commission based upon the design standards set forth in Sections 1109.03 to 1109.14, inclusive. In addition, no final plat of land within the area in which an existing Zoning Ordinance is in effect shall be approved unless it conforms with such Ordinance.

1109.03 Suitability of land.

If the City Planning Commission finds that land proposed to be subdivided is unsuitable for subdivision development due to flooding, bad drainage, topography, inadequate water supply, schools, transportation facilities and other such conditions which may endanger health, life or property; and, if from investigations conducted by the public agencies concerned, it is determined that in the best interest of the public the land should not be developed for the purpose proposed, the Commission shall not approve the land for subdivision unless adequate methods are advanced by the subdivider for solving the problems that will be created by the development of the land.

1109.17 Lots.

The following regulations shall govern the design and layout of lots:

(a) The lot arrangement and design shall be such that all lots shall provide satisfactory building sites, properly related to topography and the character of surrounding development.

(b) All lots shall conform to or exceed the requirements of these subdivision regulations and the zoning district requirements for the district in which they are located and the use for which they are intended.

(c) Where no public utilities exist, the lots shall meet the requirements of the Montgomery County Board of Health.

(d) All side lots shall be at right angles to street lines and radial to curved street lines, except where the City Planning Commission determines that a variation to this rule would provide a better layout.

(e) Lots with double frontage shall be avoided except where the Commission determines that it is essential to provide separation of residential development from arterial streets.

(f) No corner lot shall have a width at the building line of less than 75 feet, except as authorized by the Zoning Ordinance.

(g) Except as provided in Section 1109.17(i) the maximum depth of a lot shall not be greater than three times the width of the lot, except lots which contain an area of five acres or more. Lots containing over five acres shall not be less than 200 feet in width at any location; they should be of such shape and dimensions as to render the possible resubdivision of any such parcels at some later date into lots and streets which meet the requirements of these regulations, except as authorized in Chapter 1143.

(h) Additional lot depth may be required where a residential lot in a subdivision backs up to a railroad right-of-way, a high-pressure gasoline or gas line, open drainage ditch, an arterial street, an industrial area or other existing land use which may have a detrimental effect on the residential use of the property, and where no street is provided at the rear of such lot. Where a residential lot has its side lot line adjacent to any of the aforementioned an appropriate additional width may also be required.

(i) The minimum lot size where public sewer or water is not available shall be one acre with a minimum frontage of 200 feet.

Where soil conditions are of such nature that proper operation of wells and septic systems may be impaired, the City Planning Commission may increase the size of any or all lots in the subdivision.

Where soils are classified as prime agricultural soils as defined in these regulations, or are adjacent to prime agricultural soils, the Commission may permit the alteration of these requirements where the subdivider demonstrates that such alteration is necessary and desirable in order to preserve the prime agricultural soils, provided that the subdivision is not contrary to applicable zoning regulations

Chapter 1171 General Provisions

1171.01 Purpose.

Planned Unit Developments Districts may be permitted as amendments to the zoning map, after application and approval of specific and detailed plans, where tracts suitable in location and character for the uses and structures proposed are to be planned and developed as units. The provisions of this chapter are adopted to unify planning and development in such districts. Applications for rezoning of land into a Planned Unit Development District shall be granted only when the basic development plan for the project is such that the public health, safety and morals shall not be jeopardized by a departure from the restrictions on corresponding uses in the standard zoning district. PUD rezonings may be approved only when a basic development plan for the area has been approved by Council. A detailed development plan shall then be approved for zoning permit to be approved for development in the District. Normally the detailed development plan shall be approved by the Planning Commission after the rezoning and basic development plan have been approved by Council. Owners shall have the option however, of submitting a combined basic and detailed development plan ("combined development plan") if they should so desire for some or all of the site.

(Ord. 93-O-602, Passed 3-22-93)

1171.05 Contents of basic development plan.

(a) The basic development plan shall consist of at least the following information together with such other data and materials as may be required by the City:

(1) Site plan showing the actual shape and dimensions of the lot to be built upon or to be changed in its use together with the location of the existing and proposed structures with approximate square footages, number of stories including heights of structures;

(2) Typical elevation views of the front and side of each type of building;

(3) Planning location and dimensions of all proposed drives, service access road, sidewalks and curb openings;

(4) Parking lot areas (show dimensions of a typical parking space), unloading areas, fire lanes and handicapped parking;

(5) Landscaping plan, walls and fences;

(6) Storm water detention and surface drainage;

(7) Exterior lighting plan;

(8) Vehicular circulation pattern;

(9) Location and square footage of signs;

(10) Topographic survey; and

(11) Listing of proposed uses taken from the list of permitted and special uses of the PUD zoning district to which rezoning is being sought.

(b) The Planning Commission shall schedule both the proposed rezoning and the issue of approval of the basic development plan for a combined public hearing, following which it shall make its recommendation indicating approval, approval with modification or disapproval.

(Ord. 2006-O-1655, Passed 9-25-05)

1171.06 General standards for approval.

The Planning Commission shall review the application, prepared development plan and the facts presented at the hearing. The applicant shall have the burden of proof. No approval shall be given unless the Commission shall find by a preponderance of the evidence that such PUD on the proposed locations:

(a) Is consistent with official thoroughfare plan, comprehensive development plan and other applicable plans and policies;

(b) Could be substantially completed within the period of time specified in the schedule of development submitted by the developer;

(c) Is accessible from public roads that are adequate to carry the traffic that shall be imposed upon them by the proposed development. Further, the streets and driveways on the site of the proposed development shall be adequate to serve the residents or occupants of the proposed development;

(d) Shall not impose an undue burden on public services such as utilities, fire and police protection, and schools;

(e) Contains such proposed covenants, easements and other provisions relating to the proposed development standards as may reasonably be required for the public health, safety and welfare;

(f) Shall be landscaped or otherwise improved and the location and arrangement of structures, parking areas, walks, lighting and appurtenant facilities shall be compatible with the existing intended uses, and any part of a PUD not used for structures, parking and loading areas, or accessways;

(g) Shall preserve natural features such as water courses, trees and rock outcrops, to the degree possible, so that they can enhance the overall design of the PUD;

(h) Is designed to take advantage of the existing land contours in order to provide satisfactory road gradients and suitable building lots and to facilitate the provision of proposed services;

(i) Shall place underground all electric and telephone facilities, street light wiring and other wiring conduits and similar facilities in any development which is primarily designed for or occupied by dwellings, unless waived by the Commission because of technical reasons;

(j) Shall not create excessive additional requirements at public cost of public facilities and services and shall not be detrimental to the economic welfare of the community;

(k) Shall not involve uses, activities, processes, materials, equipment and conditions of operation that shall be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors; and

(l) Rezoning of the land to the PUD District and approval of the development plan shall not adversely affect the public peace, health, morals, safety or welfare.

1171.091 Planning commission/council review.

It is the purpose of the Planning Development regulations to encourage property owners to develop their land in efficient and effective ways. It is the intent of these regulations to encourage land uses which may not always meet traditional zoning rules. Inherent in these Planned Development regulations is an opportunity for property owners to develop their sites without requiring strict compliance with all zoning regulations where the overall plan is deemed to be in the best interest of the City. During review of a Basic or Detailed Development Plan by the Planning Commission or City Council, all requirements within Part 11, Title 7 of the Code are to be used as guidelines and may be varied as part of the Basic or Detailed Development Plan if it is determined that such deviation will not materially adversely affect neighboring properties or the community as a whole, any such variation of these requirements does not change the overall plan and character of the proposed development, and the variance does not have the effect of nullifying the intent and purpose of these regulations or the Zoning Ordinance. In granting variances or modifications, the Commission or Council may require such conditions as shall, in its judgement, secure substantially the objective of the standards or requirements so varied or modified.

Chapter 1179 Planned Industrial District

1177.01 Principal permitted uses.

Any principal permitted use in the Industrial Districts, I-1 and I-2, and PO Planned Office District shall be permitted. Manufacturing, processing, warehousing, industrial service activities, office and associated activities may be developed, operated and maintained within a single, organized development in accordance with an approved Planned Industrial Development District.

1177.02 Accessory uses.

Only the following accessory uses shall be permitted in this District:

(a) Uses customarily incidental to all principal permitted uses; and

(b) Temporary buildings and uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.

1177.03 Development standards.

Except when specifically modified herein, the provisions of Chapter 1181, "General Provisions" shall govern. In addition, the following developmental standards shall apply:

(a) *Minimum Land Area Requirements.*

(1) No minimum land area shall be required.

(b) *Site Planning, General Design Standards and Improvement Requirements.*

(1) Total land occupancy by all buildings for a Planned Industrial Development District shall not exceed 75 percent of the area of the tract to be developed.

(2) Planned Industrial Development Districts shall have access to at least one major thoroughfare as established on the Official Thoroughfare Plan.

(3) Landscaping and use of yards shall be as follows:

A. Required side and rear yards shall be maintained in landscaping and shall not be used for off-street parking along all property lines which abut residential or PM districts. The

landscaping shall include, at a minimum, a six-foot high wooden or vinyl fence structure, earth mound, or wall with an opaqueness of 100 percent.

B. Any front, side or rear yard that fronts a public street is required to be landscaped including street trees as outlined in Chapter 1181 and additional landscaping as determined appropriate by the Planning Commission.

C. The project area, where it abuts another business, office, or industrial district, shall be maintained in landscaping and not used for parking, to the extent of a minimum of 15-foot depth along property lines.

(4) Off-street parking and loading spaces shall be required as set forth in Chapter 1185. In addition:

A. Off-street parking and loading facilities shall be provided, with area, location and design appropriate to the needs and specific uses of the industrial project. Space designated for off-street parking shall not be used for off-street loading.

B. Off-street parking and loading facilities shall not be located in the front yard of any property.

C. Off-street parking and loading shall be of sufficient size to accommodate normal peak loads.

D. Loading docks shall not be placed between the building and the front lot line.

(5) There shall be a side and rear yard setback of 25 feet or equal to the heights of the principal building, whichever is greater. If adjacent to a residential district or PM District, a minimum of 75 feet.

(6) All streets within the Planned Industrial Development District shall have a width of not less than 40 feet and shall comply with the City's construction standards.

(7) The distribution systems for utilities are required to be underground.

(8) Building materials. The front facade of a principal building facing any public street on any property in the PI District shall be required to be constructed of at least 30 percent masonry materials that will extend along the entire length of the facade of the principal building. For the purposes of this section, the front facade of a principal building shall include any wall of the principal building that is parallel to the public street and is located within 100 feet of the established building line. The Planning Commission shall determine the appropriateness of the proposed masonry material design. In the case of a property which has frontage on more than one public street, the facade facing the public street from which access to the property is provided shall be considered the front facade of the building. In addition to the front facade, the side or rear facades of the principal building that face Interstate 70 or a State Route shall be constructed of at least 30 percent masonry materials that shall be clearly visible to Interstate 70 or the State Route unless a sufficient landscaping buffer is provided and is determined appropriate by Planning Commission. Recommended masonry materials include brick, split face block, tilt-up concrete, dryvit or any similar material determined appropriate by the Planning Commission.

(9) Street tree requirement. Please refer to Chapter 1181 for street tree requirements.

(10) Trash container enclosures. Please refer to Chapter 1181 for trash container enclosure requirements.

1177.04 Conditions.

All uses shall be conducted wholly within a completely enclosed building except for parking, loading and unloading facilities, which shall all be off-street. No use shall be permitted to be established or maintained which

by reason of its nature or manner of operation is or may become hazardous, noxious or offensive owing to the emission of odor, dust, smoke, cinders, gas fumes, noise, vibration, refuse matter or water-carried waste.

1177.05 Special uses.

The following special uses and no other shall be permitted in the "P1" District.

(a) Sexually oriented businesses in accordance with Chapter 1135. Provided no sexually oriented business shall be located within a 500-foot radius of any other sexually oriented business. No sexually oriented business shall be located within a 500-foot radius from any residential use or residential zoning district, any public park, church or church grounds, public or private school, kindergarten or nursery school. No sexually oriented business shall be located within 1,000 feet of the right-of-way of, or be on a lot with frontage upon any divided, limited access highway including but not limited to applicable portions of Interstate 70, Ohio Route 4 and Ohio Route 235. Measurement of distances shall be as provided in Section 735.04 of the City Code of Huber Heights.

Subdivision Standards Analysis:

The following is the analysis of the subdivision and zoning regulations as applied to the applicant's proposal to subdivide a five-acre parcel into two lots: Lot 1: A 1.30-acre lot zoned Agricultural; Lot 2: A 3.55-acre lot requesting to be zoned Planned Industrial.

Proposed Lot 1 Analysis:

Use: Conforming (residential uses are permitted in the Agricultural District)
Lot Size: 1.3 acres – Conforms to zoning regulations (min. 1 acre required)
Lot Frontage: 158.06 feet – Does not conform to zoning code regulations
(Zoning code requires 200 feet. (Section 1142.05)
Yards:
Front: Conforming (min 60 feet)
Side: Conforming (min 30 feet)
Rear: Conforming (min 50 feet)

Other Issues:
There is no public water or sewer currently available along this portion of Taylorsville Road. Therefore, the proposed lot does not meet 1109.17(i) of the subdivision regulations: The minimum lot size where public sewer or water is not available shall be one acre with a minimum frontage of 200 feet.

Proposed Lot 2 Analysis:

Use: Proposed use of truck / heavy equipment repair is permitted in the Planned Industrial District

Lot Size: 3.56 acres – Conforms to zoning regulations (No min. area required)
Lot Frontage: 41.43 feet – Conforms to zoning regulations (35 feet is min. required)

Yards:

Front: Conforming (min 50 feet)
Side: Conforming (min 25 feet)
Rear: Conforming (min 25 feet)

Other Issues:
There is no public water or sewer currently available along this portion of Taylorsville Road. Therefore, the proposed lot does not meet 1109.17(i) of the subdivision regulations: The minimum lot size where public sewer or water is not available shall be one acre with a minimum frontage of 200 feet.

Staff Analysis
The subdivision of the 5-acre parcel into two new lots will create one minor nonconformity, which is Lot 1, will have less frontage than required by the zoning code. The subdivision regulations do not prohibit flag lots and there are examples of rural non-conforming lots of similar type. That being said, it is poor planning practice to encourage the creation of non-conforming lots.

Staff recommends the record plan only be approved if Planning Commission recommends approval of the rezoning.

Zoning Standards Analysis:
This analysis is based on the rezoning application submitted on March 28, 2022. The zoning code assumes that rezonings to planned unit development are part of a redevelopment or new construction project. The applicant has not indicated they are proposing any improvements to the site, and has not submitted a formal basic development plan. Therefore, staff is assuming no improvements are planned for the property, and the record plan survey dated May 4, 2022 will serve as the basic development plan.

1177.01 Principal permitted uses.

Any principal permitted use in the Industrial Districts, I-1 and I-2, and PO Planned Office District shall be permitted. Manufacturing, processing, warehousing, industrial service activities, office and associated activities may be developed, operated and maintained within a single, organized development in accordance with an approved Planned Industrial Development District.

The proposed truck and heavy equipment repair is principally permitted within the Planned Industrial District.

1177.03 Development standards.

Except when specifically modified herein, the provisions of Chapter 1181, "General Provisions" shall govern. In addition, the following developmental standards shall apply:

(a) *Minimum Land Area Requirements.*

(1) No minimum land area shall be required.

The proposed replat and rezoning results in a Planned Industrial site of approximately 3.55 acres.

(b) *Site Planning, General Design Standards and Improvement Requirements.*

(1) Total land occupancy by all buildings for a Planned Industrial Development District shall not exceed 75 percent of the area of the tract to be developed.

As indicated by the record plan, the occupancy for the PI district is significantly less than 75 percent of the area. Additionally, the applicant has not indicated any additional improvements are intended for the site.

(2) Planned Industrial Development Districts shall have access to at least one major thoroughfare as established on the Official Thoroughfare Plan.

Taylorsville Road is a major thoroughfare as established on the Official Thoroughfare Plan.

(3) Landscaping and use of yards shall be as follows:

A. Required side and rear yards shall be maintained in landscaping and shall not be used for off-street parking along all property lines which abut residential or PM districts. The landscaping shall include, at a minimum, a six-foot high wooden or vinyl fence structure, earth mound, or wall with an opaqueness of 100 percent.

B. Any front, side or rear yard that fronts a public street is required to be landscaped including street trees as outlined in Chapter 1181 and additional landscaping as determined appropriate by the Planning Commission.

C. The project area, where it abuts another business, office, or industrial district, shall be maintained in landscaping and not used for parking, to the extent of a minimum of 15-foot depth along property lines.

No additional landscaping or buffering is indicated on any plans submitted to date. However, with exception to the street tree requirement, no screening along the side yards is required.

(4) Off-street parking and loading spaces shall be required as set forth in Chapter 1185. In addition:

A. Off-street parking and loading facilities shall be provided, with area, location and design appropriate to the needs and specific uses of the industrial project. Space designated for off-street parking shall not be used for off-street loading.

B. Off-street parking and loading facilities shall not be located in the front yard of any property.

C. Off-street parking and loading shall be of sufficient size to accommodate normal peak loads.

D. Loading docks shall not be placed between the building and the front lot line.

The applicant has not proposed any off-street parking or loading area improvements. A large gravel parking area exists in front of the existing building where repairs are currently taking place. Staff does not feel additional parking is warranted and will distract from the rural nature of the neighborhood.

(5) There shall be a side and rear yard setback of 25 feet or equal to the heights of the principal building, whichever is greater. If adjacent to a residential district or PM District, a minimum of 75 feet.

There is approximately 25 feet between the existing barn and the east property line. The applicant has not provided building heights, therefore if the building is greater than 25 feet, the structure will be a legally non-conforming structure if the rezoning is approved.

(6) All streets within the Planned Industrial Development District shall have a width of not less than 40 feet and shall comply with the City's construction standards.

No new streets are proposed.

(7) The distribution systems for utilities are required to be underground.

No new utilities are proposed.

(8) Building materials. The front facade of a principal building facing any public street on any property in the PI District shall be required to be constructed of at least 30 percent masonry materials that will extend along the entire length of the facade of the principal building. For the purposes of this section, the front facade of a principal building shall include any wall of the principal building that is parallel to the public street and is located within 100 feet of the established building line. The Planning Commission shall determine the appropriateness of the proposed masonry material design. In the case of a property which has frontage on more than one public street, the facade facing the public street from which access to the property is provided shall be considered the front facade of the building. In addition to the front facade, the side or rear facades of the principal building that face Interstate 70 or a State Route shall be constructed of at least 30 percent masonry materials that shall be clearly visible to Interstate 70 or the State Route unless a sufficient landscaping buffer is provided and is determined appropriate by Planning Commission. Recommended masonry materials include brick, split face block, tilt-up concrete, dryvit or any similar material determined appropriate by the Planning Commission.

No new buildings are proposed. If the rezoning is approved, any new buildings proposed on this lot shall be subject to this provision.

(9) Street tree requirement. Please refer to Chapter 1181 for street tree requirements.

No landscaping plans were submitted with the application.

(10) Trash container enclosures. Please refer to Chapter 1181 for trash container enclosure requirements.

No new trash containers are proposed.

1177.04 Conditions.

All uses shall be conducted wholly within a completely enclosed building except for parking, loading and unloading facilities, which shall all be off-street. No use shall be permitted to be established or maintained which by reason of its nature or manner of operation is or may become hazardous, noxious or offensive owing to the emission of odor, dust, smoke, cinders, gas fumes, noise, vibration, refuse matter or water-carried waste.

If the rezoning is approved, the applicant will be required to move his repair operations wholly indoors. This requirement was brought to the attention of the applicant, and he indicated he understood the requirements and wished to proceed with the rezoning request.

While the applicant has agreed to these conditions, it is important to note that the site under discussion is not readily visible from the right-of-way, in fact it is nearly 400 feet from Taylorsville Road. Therefore, any violations of this condition will be almost impossible for code enforcement staff to easily recognize and thus enforcement of this condition will likely only be triggered by complaints made by adjacent property owners or residents.

Staff Analysis of Standards for approval

The Planning Commission shall review the application, prepared development plan and the facts presented at the hearing. The applicant shall have the burden of proof. No approval shall be given unless the Commission shall find by a preponderance of the evidence that such PUD on the proposed locations:

(a) Is consistent with official thoroughfare plan, comprehensive development plan and other applicable plans and policies;

The applicant is seeking relief for the illegal use by requesting a rezoning to Planned Industrial after the BZA denied the use variance. The comprehensive plan indicates this area should be agricultural/low density residential. The proposed rezoning is not consistent with the comprehensive plan.

In his application, the applicant references the industrially zoned land within a ¼ to ½ mile of this site. It should be noted that the majority of that land is consistent with the comprehensive plan and has access to public water and sewer. Neither are applicable to the applicant's site.

(b) Could be substantially completed within the period of time specified in the schedule of development submitted by the developer;

N/A. The applicant is not proposing any improvements to the property.

(c) Is accessible from public roads that are adequate to carry the traffic that shall be imposed upon them by the proposed development. Further, the streets and driveways on the site of the proposed development shall be adequate to serve the residents or occupants of the proposed development;

Taylorsville Road is classified as a major thoroughfare in the City Thoroughfare Plan. The proposed record plan illustrates a dedication of 35 feet of Right of Way, consistent with the Thoroughfare Plan.

(d) Shall not impose an undue burden on public services such as utilities, fire and police protection, and schools;

This use has not historically imposed an undue burden on public services.

(e) Contains such proposed covenants, easements and other provisions relating to the proposed development standards as may reasonably be required for the public health, safety and welfare;

N/A

(f) Shall be landscaped or otherwise improved and the location and arrangement of structures, parking areas, walks, lighting and appurtenant facilities shall be compatible with the existing intended uses, and any part of a PUD not used for structures, parking and loading areas, or accessways;

No improvements to the property have been proposed by the applicant. However, the applicant has stated he is willing to provide buffering for the adjacent neighboring properties.

(g) Shall preserve natural features such as water courses, trees and rock outcrops, to the degree possible, so that they can enhance the overall design of the PUD;

N/A

(h) Is designed to take advantage of the existing land contours in order to provide satisfactory road gradients and suitable building lots and to facilitate the provision of proposed services;

N/A

(i) Shall place underground all electric and telephone facilities, street light wiring and other wiring conduits and similar facilities in any development which is primarily designed for or occupied by dwellings, unless waived by the Commission because of technical reasons;

No improvements to the property have been proposed by the applicant.

(j) Shall not create excessive additional requirements at public cost of public facilities and services and shall not be detrimental to the economic welfare of the community;

No additional public facilities are anticipated due to this rezoning request.

(k) Shall not involve uses, activities, processes, materials, equipment and conditions of operation that shall be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors; and

This rezoning request ultimately arose due to complaints from neighboring property owners or residents regarding the operation of a truck / heavy equipment repair facility in their neighborhood. According to the minutes of the BZA hearing, complaints, centered on the noise of the diesel engines and traffic congestion due to vehicles moving on and off site. Additional concerns were raised about the potential contamination of drinking water wells due to fluid leaks or spills.

Noise, smoke and fumes are likely an occasional byproduct of heavy engine repair. If the planning commission is inclined to approve the rezoning, limiting the hours of operation to a traditional M-F, 8am – 6pm may reduce the impacts of this facility on the neighboring residents, especially in the evenings and weekends.

(l) Rezoning of the land to the PUD District and approval of the development plan shall not adversely affect the public peace, health, morals, safety or welfare.

As indicated above, neighbors have expressed concerns about noise from the diesel engines and ground water pollution from this operation during the BZA hearing. All residents along this segment of Taylorsville Road get their drinking water from private wells, and this concern should not be overlooked.

STAFF RECOMMENDATION

It is the staff's opinion the rezoning to Planned Industrial does not meet the standards outlined in Section 1171.06. As outlined through the staff analysis above, the application does not meet the standards of Section 1171.06(a), (k), and (L). Therefore, staff recommends denial of the replat and rezoning from Agricultural to Planned Industrial.

If the Planning Commission determines the rezoning request is consistent with the standards outlined in Section 1171.06, staff recommends the following conditions:

1) The applicant shall obtain all necessary zoning and business licenses required by the City of Huber Heights;
2) All business and repair operations shall occur indoors, consistent with the requirements of the Planned Industrial District;
3) No outdoor storage of equipment, parts, inoperable or junk vehicles, or other materials associated with the truck and equipment repair business shall be permitted;
4) Repaired vehicles shall be stored on site no longer than five consecutive days;
5) The applicant shall comply with the Huber Heights Fire Department regarding the onsite storage of hazardous and/or industrial materials;
6) Hours of operation shall be limited to 8:00am – 6:00pm, Monday through Friday;

Planning Commission Action

Planning Commission may take the following actions with a motion:

1) Recommend approval of the rezoning and Basic Development Plan;
2) Recommend denial of the rezoning and Basic Development Plan (the Commission should state the specific reasons for denial); or
3) Table the application for additional information.

HUBER HEIGHTS
Come Grow With Us!

Planning Commission Decision Record

WHEREAS, on March 28, 2022, the applicant, Michael Skilwies, requested approval of a Replat and Rezone of 3.55 acres from Agriculture to Planned Industrial at 9416 Taylorsville Road (Case RZ 22-17), and;

WHEREAS, on May 24, 2022, the Planning Commission did meet and fully discuss the details of the request.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission hereby approved the request.

Ms. Thomas moved to approve the application by the applicant, Michael Skilwies, for approval of a Replat and Rezone of 3.55 acres from Agriculture to Planned Industrial at 9416 Taylorsville Road Parcel Number P70 03902 0018 of the Montgomery County Auditors Map (Case RZ 22-17) in accordance with the recommendation of Staff's Memorandum dated May 24, 2022, with the following conditions:

1. The applicant shall obtain all necessary zoning and business licenses required by the City of Huber Heights;

2. All business and repair operations shall occur indoors, consistent with the requirements of the Planned Industrial District;

3. No outdoor storage of equipment, parts, inoperable or junk vehicles, or other materials associated with the truck and equipment repair business shall be permitted;

4. Repaired vehicles shall be stored on site no longer than five consecutive days;

5. The applicant shall comply with the Huber Heights Fire Department regarding the onsite storage of hazardous and/or industrial materials;
6. Hours of operation shall be limited to 8:00am – 6:00pm, Monday through Friday;
7. The applicant shall pave and widen the driveway to minimum width of 35';
8. The applicant shall install screening along west property line, subject to detailed development plan approval.

Seconded by Mr. Jeffries. Roll call showed: YEAS: Ms. Vargo. NAYS: Ms. Opp, Mr. Jeffries, Ms. Thomas, and Mr. Walton. Motion to approve denied 4-1 .

_____ _____

Terry Walton, Chair
Planning Commission

Date

Planning Commission
May 24, 2022, Meeting
City of Huber Heights

I. Chair Terry Walton called the meeting to order at approximately 6:00 p.m.

II. Present at the meeting: Mr. Jeffries, Ms. Opp, Ms. Thomas, Ms. Vargo and Mr. Walton.

Members absent: None.

Staff Present: Aaron K. Sorrell, Interim City Planner, and Geri Hoskins, Planning & Zoning Administrative Secretary.

III. Opening Remarks by the Chairman and Commissioners

IV. Citizens Comments

None.

V. Swearing of Witnesses

Mr. Walton explained the proceedings of tonight's meeting and administered the sworn oath to all persons wishing to speak or give testimony regarding items on the agenda. All persons present responded in the affirmative.

VI. Pending Business

1. None

VII. New Business

1. **REZONING AND LOT SPLIT - The applicant, MICHAEL SKILWIES, is requesting approval of a Replat and Rezoning from A (Agricultural) to PI (Planned Industrial). Property located at 9416 Taylorsville Road (Case RZ 22-17).**

Mr. Sorrell stated that the applicant has been operating a truck and heavy equipment repair business at this location for many years. Based on complaints received in August 2021, Zoning staff-initiated enforcement action on the applicant's business based on the fact that non-farm related truck and heavy equipment repair is not permitted in the Agricultural District. In August 2021 the applicant requested a use variance for the diesel truck and equipment repair operations. The BZA unanimously denied the application at their October 6, 2021 meeting.

The applicant was provided with the lot split and rezoning application shortly after the BZA decision as an alternative path to allow the continued operation of the repair facility. On or about March 28, 2022 Zoning staff filed minor misdemeanor charges for the continued operation of repair facility and the applicant subsequently filed the application for a lot split and rezoning.

Applicable Subdivision and Zoning Regulations

The applicable subdivision regulations include: 1109 Subdivision Design Standards

The appliable zoning chapters include: 1171 General Provisions, 1177 Planned Industrial District.

Subdivision Standards Analysis:

The following is the analysis of the subdivision and zoning regulations as applied to the applicant's proposal to subdivide a five-acre parcel into two lots: Lot 1: A 1.30-acre lot zoned Agricultural; Lot 2: A 3.55-acre lot requesting to be zoned Planned Industrial.

Proposed Lot 1 Analysis:

Use: Conforming (residential uses are permitted in the Agricultural District)
Lot Size: 1.3 acres – Conforms to zoning regulations (min. 1 acre required)
Lot Frontage: 158.06 feet – Does not conform to zoning code regulations (Zoning code requires 200 feet. (Section 1142.05)
Yards:
Front: Conforming (min 60 feet)
Side: Conforming (min 30 feet)
Rear: Conforming (min 50 feet)

Other Issues:
There is no public water or sewer currently available along this portion of Taylorsville Road. Therefore, the proposed lot does not meet 1109.17(i) of the subdivision regulations: The minimum lot size where public sewer or water is not available shall be one acre with a minimum frontage of 200 feet.

Proposed Lot 2 Analysis:

Use: Proposed use of truck / heavy equipment repair is permitted in the Planned Industrial District

Lot Size: 3.56 acres – Conforms to zoning regulations (No min. area required)
Lot Frontage: 41.43 feet – Conforms to zoning regulations (35 feet is min. required)

Yards:
Front: Conforming (min 50 feet)
Side: Conforming (min 25 feet)
Rear: Conforming (min 25 feet)

Other Issues:
There is no public water or sewer currently available along this portion of Taylorsville Road. Therefore, the proposed lot does not meet 1109.17(i) of the subdivision regulations: The minimum lot size where public sewer or water is not available shall be one acre with a minimum frontage of 200 feet.

Staff Analysis

The subdivision of the 5-acre parcel into two new lots will create one minor nonconformity, which is Lot 1, will have less frontage than required by the zoning code. The subdivision regulations do not prohibit flag lots and there are examples of rural non-conforming lots of similar type. That being said, it is poor planning practice to encourage the creation of non-conforming lots.

Staff recommends the record plan only be approved if Planning Commission recommends approval of the rezoning.

Zoning Standards Analysis:

This analysis is based on the rezoning application submitted on March 28, 2022. The zoning code assumes that rezonings to planned unit development are part of a redevelopment or new construction project. The applicant has not indicated they are proposing any improvements to the site, and has not submitted a formal basic development plan. Therefore, staff is assuming no improvements are planned for the property, and the record plan survey dated May 4, 2022 will serve as the basic development plan.

The proposed truck and heavy equipment repair is principally permitted within the Planned Industrial District.

As indicated by the record plan, the occupancy for the PI district is significantly less than 75 percent of the area. Additionally, the applicant has not indicated any additional improvements are intended for the site. Taylorsville Road is a major thoroughfare as established on the Official Thoroughfare Plan.

No additional landscaping or buffering is indicated on any plans submitted to date. However, with exception to the street tree requirement, no screening along the side yards is required.

The applicant has not proposed any off-street parking or loading area improvements. A large gravel parking area exists in front of the existing building where repairs are currently taking place. Staff does not feel additional parking is warranted and will distract from the rural nature of the neighborhood.

No new buildings are proposed. If the rezoning is approved, any new buildings proposed on this lot shall be subject to this provision.

If the rezoning is approved, the applicant will be required to move his repair operations wholly indoors. This requirement was brought to the attention of the applicant, and he indicated he understood the requirements and wished to proceed with the rezoning request.

While the applicant has agreed to these conditions, it is important to note that the site under discussion is not readily visible from the right-of-way, in fact it is nearly 400 feet from Taylorsville Road. Therefore, any violations of this condition will be almost impossible for code enforcement staff to easily recognize and thus enforcement of this condition will likely only be triggered by complaints made by adjacent property owners or residents

The applicant is seeking relief for the illegal use by requesting a rezoning to Planned Industrial after the BZA denied the use variance. The comprehensive plan indicates this area should be agricultural/low density residential. The proposed rezoning is not consistent with the comprehensive plan.

In his application, the applicant references the industrially zoned land within a ¼ to ½ mile of this site. It should be noted that the majority of that land is consistent with the comprehensive plan and has access to public water and sewer. Neither are applicable to the applicant's site.

This rezoning request ultimately arose due to complaints from neighboring property owners or residents regarding the operation of a truck / heavy equipment repair facility in their neighborhood. According to the minutes of the BZA hearing, complaints, centered on the noise of the diesel engines and traffic congestion due to vehicles moving on and off site. Additional concerns were raised about the potential contamination of drinking water wells due to fluid leaks or spills.

Noise, smoke and fumes are likely an occasional byproduct of heavy engine repair. If the planning commission is inclined to approve the rezoning, limiting the hours of operation to a traditional M-F, 8am – 6pm may reduce the impacts of this facility on the neighboring residents, especially in the evenings and weekends.

(a) Rezoning of the land to the PUD District and approval of the development plan shall not adversely affect the public peace, health, morals, safety or welfare.

As indicated above, neighbors have expressed concerns about noise from the diesel engines and ground water pollution from this operation during the BZA hearing. All residents along this segment of Taylorsville Road get their drinking water from private wells, and this concern should not be overlooked.

STAFF RECOMMENDATION

It is the staff's opinion the rezoning to Planned Industrial does not meet the standards outlined in Section 1171.06. As outlined through the staff analysis above, the application does not meet the standards of Section 1171.06(a), (k), and (L). Therefore, staff recommends denial of the replat and rezoning from Agricultural to Planned Industrial.

If the Planning Commission determines the rezoning request is consistent with the standards outlined in Section 1171.06, staff recommends the following conditions:

1) The applicant shall obtain all necessary zoning and business licenses required by the City of Huber Heights;
2) All business and repair operations shall occur indoors, consistent with the requirements of the Planned Industrial District;
3) No outdoor storage of equipment, parts, inoperable or junk vehicles, or other materials associated with the truck and equipment repair business shall be permitted;
4) Repaired vehicles shall be stored on site no longer than five consecutive days;

5) The applicant shall comply with the Huber Heights Fire Department regarding the onsite storage of hazardous and/or industrial materials;
6) Hours of operation shall be limited to 8:00am – 6:00pm, Monday through Friday;

Michael Skilwies and Attorney Greg Page spoke. A few neighbors spoke in opposition.

Discussion on inside storage, widen apron and driveway, current hours, Night lights, no complaints, visual truck traffic, EPA, concern about how long they've been in business, property value, safety, health, no other industrial plots, enforcement, and splitting lot what if sold.

Action

Ms. Thomas moved to approve the request by the applicant Michael Skilwies, for approval of a Rezoning from A (Agricultural) to PI (Planned Industrial) and a Lot Split. Property located at 9416 Taylorsville Road further identified as Parcel Number P70 03902 0018 of the Montgomery County Auditor's Map (Case RZ 22-17) in accordance with the recommendation of Staff's Memorandum dated May 24, 2022 and the Planning Commission Decision Record attached thereto.

Seconded by Mr. Jeffries. Roll call showed: YEAS: Ms. Vargo. NAYS: Mr. Jeffries, Ms. Opp, Ms. Thomas, and Mr. Walton. Motion to approve denied 4-1.

2. **MAJOR CHANGE TO THE DETAILED DEVELOPMENT PLAN - The applicant, SKILKEN GOLD REAL ESTATE DEVELOPMENT, LLC, is requesting approval of a Major Change to the Detailed Development Plan for a proposed Convenient Store/Gas Station and Car Wash. Property located at Old Troy Pike and Taylorsville Road (Case MJC 22-21).**

Mr. Sorrell stated applicant wasn't ready but due to already being advertised, this was added to the agenda.

Action

Mr. Jeffries moved to table the request by the applicant Skilken Gold Real Estate Development, LLC, for approval of a Major Change to the Detailed Development Plan (Case MJC 22-21) until the next Planning Commission meeting of 6/14/2022.

Seconded by Ms. Thomas. Roll call showed: YEAS: Ms. Opp, Ms. Vargo, Ms. Thomas, Mr. Jeffries, and Mr. Walton. NAYS: None. Motion to table carried 5-0.

VIII. Additional Business

RZ 22-17
9416 Taylorsville Rd

Request for Approval of Rezoning and Replat

July 11, 2022

Site Details:

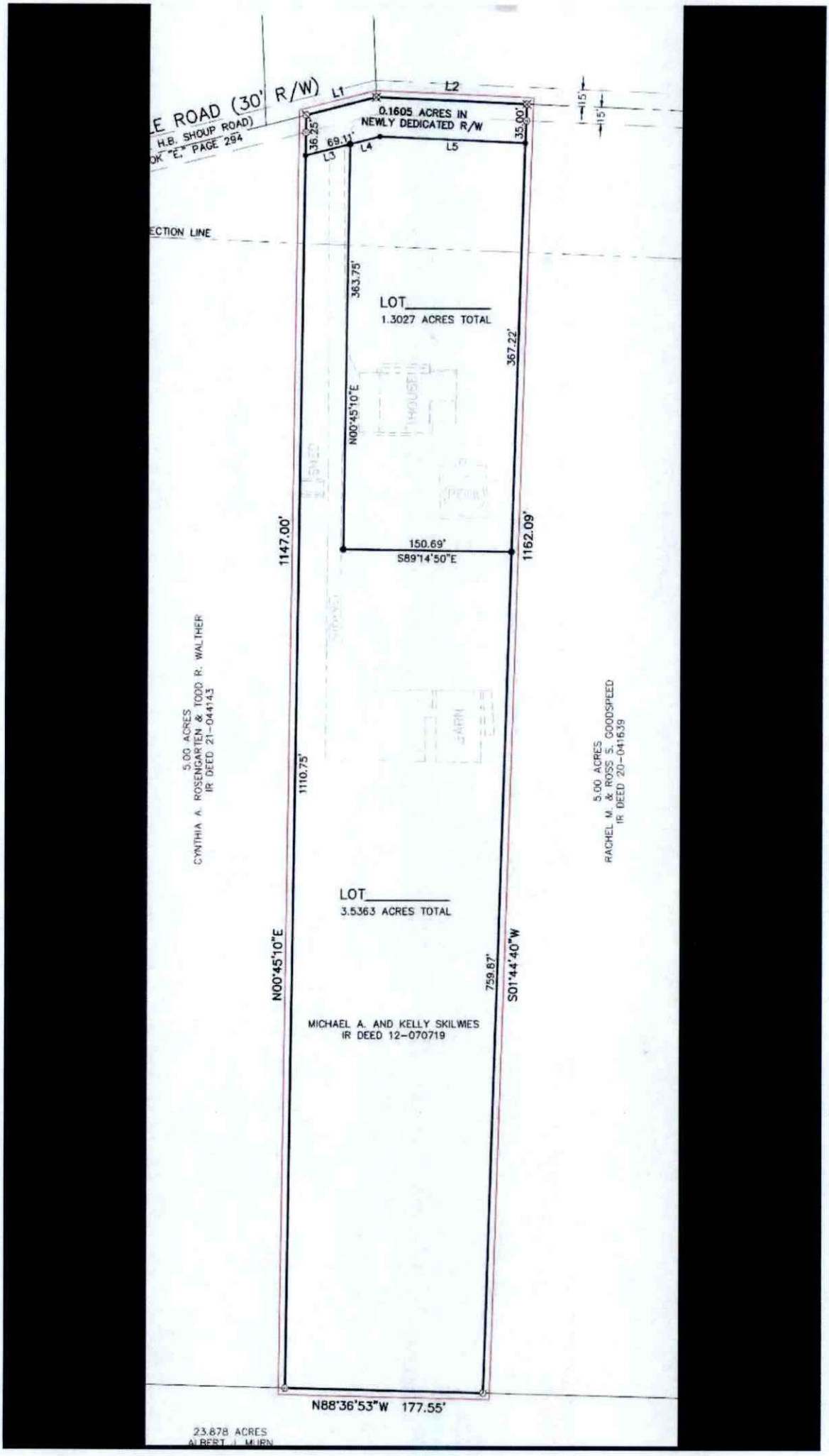
- 5 acres, zoned A (Agricultural)
- Existing land use is residential
- Surrounding property is zoned Agricultural

Application:

- Applicant is requesting a replat of 3.5 acres and a rezoning to Planned Industrial to accommodate existing diesel truck / equipment repair business.
- 1.5 acres (residence) will remain zoned Agricultural


P70 03902 0001
TAYLORSVILLE RD
NEW CARLISLE PIKE
STATE ROUTE 4
STATE ROUTE 4
STATE ROUTE 23
P70 03902 0013
P70 03902 0056
P70 03902 0016
VALLEY PIKE


SVILLE RD
9303
9459
9491
9174
9266
9304
9340
9378
9416
9454
9220
9550
R-1
7570
7700
I-1
7401
9492
7340
NEW CARLISLE PIKE
P70 03902 0001
P70 03902 0033
P70 03902 0036
P70 03902 0009
P70 03902 0030
P70 03902 0015
P70 03902 0016
P70 03902 0018
P70 03902 0020
P70 03902 0021
P70 03902 0049
P70 03902 0050
P70 03902 0051
P70 03902 0052
P70 03902 0053
P70 03902 0074


E ROAD (30' R/W)
H.B. SHOUP ROAD)
OK "E," PAGE 294
L1
L2
0.1605 ACRES IN
NEWLY DEDICATED R/W
35.00'
36.25'
69.11'
L3
L4
L5
15'
15'
ECTION LINE
363.75'
LOT
1.3027 ACRES TOTAL
367.22'
N00°45'10"E
HOUSE
1147.00'
150.69'
S89°14'50"E
1162.09'
5.00 ACRES
CYNTHIA A. ROSENGARTEN & TODD R. WALTHER
IR DEED 21-044143
1110.75'
LOT
3.5363 ACRES TOTAL
5.00 ACRES
RACHEL M. & ROSS S. GOODSPEED
IR DEED 20-041639
N00°45'10"E
759.87'
S01°44'40"W
MICHAEL A. AND KELLY SKILMES
IR DEED 12-070719
N88°36'53"W 177.55'
23.878 ACRES
ALBERT J. MURN

Site History:

- Applicant has been operating the repair facility for many years.
- August 2021:
  - Complaint led to zoning enforcement action
  - Applicant requested use variance
  - BZA unanimously denied variance application



Site History:

- After BZA denial city staff informed the applicant they could apply for lot split and rezoning as an alternative path forward

- March 2022:
  - Zoning enforcement action initiated
  - Applicant filed a rezoning / lot split application



Applicable Subdivision and Zoning Regulations

The applicable subdivision regulations include: 1109 Subdivision Design Standards

The appliable zoning chapters include: 1171 General Provisions, 1177 Planned Industrial District.

Replat Conformance with Subdivision and Zoning Regulations

Proposed Lot 1 Analysis (residential lot):

Use: Conforming (residential uses permitted in the Agricultural District)
Lot Size: 1.3 acres – Conforming (min. 1 acre required)
Lot Frontage: 158.06 feet – Does not conform to zoning code regulations (Zoning code requires 200 feet.)

Yards:
- Front: Conforming (min 60 feet)
- Side: Conforming (min 30 feet)
- Rear: Conforming (min 50 feet)

Replat Conformance with Subdivision and Zoning Regulations

Proposed Lot 1 Analysis (residential lot):

Other Issues:

- No public water or sewer currently available along this portion of Taylorsville Road.

- Proposed lot does not meet 1109.17(i) of the subdivision regulations: The minimum lot size where public sewer or water is not available shall be one acre with a minimum frontage of 200 feet.

Replat Conformance with Subdivision and Zoning Regulations

Proposed Lot 2 Analysis (repair facility):
Use: Proposed use of truck / heavy equipment repair is permitted in the Planned Industrial District

Lot Size: 3.56 acres – Conforming (No min. area required)
Lot Frontage: 41.43 feet – Conforming (35 feet is min. required)

Yards:

- Front: Conforming (min 50 feet)
- Side: Conforming (min 25 feet)
- Rear: Conforming (min 25 feet)

Replat Conformance with Subdivision and Zoning Regulations

Proposed Lot 2 Analysis (repair facility):

Other Issues:

- No public water or sewer currently available along this portion of Taylorsville Road.

- Proposed lot does not meet 1109.17(i) of the subdivision regulations: The minimum lot size where public sewer or water is not available shall be one acre with a minimum frontage of 200 feet.

➢ Could be an issue if lots are ever sold separately

Lot Split Staff Analysis - Summary

The subdivision of the 5-acre parcel into two new lots will create one minor nonconformity:

- Lot 1, will have less frontage than required by the zoning code.

The subdivision regulations do not prohibit flag lots and there are examples of rural non-conforming lots of similar type.

- Staff recommended the record plan only be approved if the rezoning is approved.

Conformance with Zoning Regulations

This analysis was based on the rezoning application submitted on March 28, 2022.

- The zoning code assumes that rezonings to Planned Development are part of a redevelopment or new construction project.
- The applicant has not indicated any improvements to the site, and has not submitted a formal basic development plan.
- Therefore, staff is assuming no improvements are planned and the record plan survey dated May 4, 2022 will serve as the basic development plan.

Conformance with Zoning Regulations

1177.01 Principal permitted uses.

- The proposed truck and heavy equipment repair is principally permitted within the Planned Industrial District.

1177.03 Development standards.

- No Basic Plan submitted, however based on the plat survey the lot meets the PI development standards.

Conformance with Zoning Regulations

1177.04 Conditions.

"All uses shall be conducted wholly within a completely enclosed building..... No use shall be permitted to be established or maintained which .... is or may become hazardous, noxious or offensive owing to the emission of odor, dust, smoke, cinders, gas fumes, noise, ..."

- If the rezoning is approved, the applicant will be required to move his repair operations wholly indoors. The applicant is aware of this condition.

- The site is not readily visible from the street, any violations of this condition will likely only be triggered by complaints made by adjacent property owners or residents.

Staff Analysis

The Planning Commission shall review the application, prepared development plan and the facts presented at the hearing. The applicant shall have the burden of proof. No approval shall be given unless the Commission shall find by a preponderance of the evidence that such PUD on the proposed locations:

a) Is consistent with official thoroughfare plan, comprehensive development plan and other applicable plans and policies;

- The applicant is seeking relief for the illegal use by requesting a rezoning to Planned Industrial after the BZA denied the use variance.
- The comprehensive plan indicates this area should be agricultural/low density residential and the proposed rezoning is not consistent with the comprehensive plan.

Staff Analysis

a) Is consistent with official thoroughfare plan, comprehensive development plan and other applicable plans and policies;

- The applicant references the industrially zoned land within a ¼ to ½ mile of this site. The majority of that land is consistent with the comprehensive plan, and has access to public water and sewer. Neither are applicable to the applicant's site.

Staff Analysis

(c) Is accessible from public roads that are adequate to carry the traffic that shall be imposed upon them by the proposed development. Further, the streets and driveways on the site of the proposed development shall be adequate to serve the residents or occupants of the proposed development;

- Taylorsville Road is classified as a major thoroughfare in the City Thoroughfare Plan.
- 35 feet of ROW will be dedicated, consistent with the Thoroughfare Plan.

Staff Analysis

(d) Shall not impose an undue burden on public services such as utilities, fire and police protection, and schools;

- This use has not historically imposed an undue burden on public services.

(f) Shall be landscaped or otherwise improved and the location and arrangement of structures, parking areas, walks, lighting and appurtenant facilities shall be compatible with the existing intended uses, and any part of a PUD not used for structures, parking and loading areas, or accessways;

- No improvements to the property have been proposed by the applicant. However, the applicant has stated he is willing to provide buffering for the adjacent neighboring properties.

Staff Analysis

(j) Shall not create excessive additional requirements at public cost of public facilities and services and shall not be detrimental to the economic welfare of the community;

- No additional public facilities are anticipated due to this rezoning request.

(k) Shall not involve uses, activities, processes, materials, equipment and conditions of operation that shall be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors;

- This rezoning request ultimately arose due to complaints regarding the operation of a truck / heavy equipment repair facility

Staff Analysis

(k) Continued:

- According to the minutes of the BZA hearing, complaints ,centered on the noise of the diesel engines and traffic congestion due to vehicles moving on and off site.

- Additional concerns were raised about the potential contamination of drinking water wells due to fluid leaks or spills.

- If the Council is inclined to approve the rezoning, limiting the hours of operation to a traditional M-F, 8am – 6pm may reduce the impacts of this facility on the neighboring residents, especially in the evenings and weekends.

Staff Analysis

(I) *Rezoning of the land to the PUD District and approval of the development plan shall not adversely affect the public peace, health, morals, safety or welfare.*

- As indicated above, neighbors have expressed concerns about noise from the diesel engines and ground water pollution from this operation during the BZA hearing.

- All residents along this segment of Taylorsville Road get their drinking water from private wells, and this concern should not be overlooked.

Staff Recommendation

It is the staff's opinion the rezoning to Planned Industrial does not meet the standards outlined in Section 1171.06.

- As outlined above, the application does not meet the standards of Section 1171.06(a), (k), and (L).
- Therefore, staff recommended denial of the replat and rezoning from Agricultural to Planned Industrial.
- Staff provided a set of acceptable conditions if Planning Commission was inclined to recommend approval.

Planning Commission Action:

- Three neighbors spoke in opposition to the rezoning request
  - Concerns about visual appearance (parked trucks)
  - Noise, pollution
  - Lower property values due to industrial zoning

- Planning Commission voted 4-1 to deny the rezoning request.
  - Difficult decision since the use has been operating 10+ years
  - Concerns with enforcement issues (neighbor initiated)

Staff Recommendation

If Council determines the rezoning request is consistent with the standards outlined in Section 1171.06, staff recommends the following conditions:

1. The permitted uses be limited to truck or heavy equipment repair;
2. The applicant shall obtain all necessary zoning and business licenses required by the City of Huber Heights;
3. All business and repair operations shall occur indoors, consistent with the requirements of the Planned Industrial District;
4. No outdoor storage of equipment, parts, inoperable or junk vehicles, or other materials associated with the truck and equipment repair business shall be permitted;

Staff Recommendation

Continued:

4. Repaired vehicles shall be stored on site no longer than five consecutive days;
5. The applicant shall comply with the Huber Heights Fire Department regarding the onsite storage of hazardous and/or industrial materials;
6. Hours of operation shall be limited to 8:00am – 6:00pm, Monday through Friday;
7. Applicant submits detailed development plan.

CITY OF HUBER HEIGHTS
STATE OF OHIO

ORDINANCE NO. 2022-O-

TO APPROVE A REZONING FROM AGRICULTURAL (A) TO PLANNED INDUSTRIAL (PI) AND A LOT SPLIT FOR THE PROPERTY LOCATED AT 9416 TAYLORSVILLE ROAD AND FURTHER IDENTIFIED AS PARCEL NUMBER P70 03902 0018 ON THE MONTGOMERY COUNTY AUDITOR'S MAP AND TO NOT ACCEPT THE RECOMMENDATION OF THE PLANNING COMMISSION (CASE RZ 22-17).

WHEREAS, the citizens of Huber Heights require the efficient and orderly planning of land uses within the City; and

WHEREAS, the City Planning Commission has reviewed Case RZ 22-17 and on May 24, 2022, opposed approval by a vote of 4-1 of the Rezoning from Agricultural (A) to Planned Industrial (PI) and a Lot Split; and

WHEREAS, the City Council has considered the issue.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Huber Heights, Ohio that:

Section 1. The application requesting approval of a Rezoning from Agricultural (A) to Planned Industrial (PI) and a Lot Split (Case RZ 21-17) is hereby approved in opposition to the Planning Commission's recommendation of denial by a vote of 4-1 with the following conditions:

1. The applicant shall obtain all necessary zoning and business licenses required by the City of Huber Heights.
2. All business and repair operations shall occur indoors, consistent with the requirements of the Planned Industrial District.
3. No outdoor storage of equipment, parts, inoperable or junk vehicles, or other materials associated with the truck and equipment repair business shall be permitted.
4. Repaired vehicles shall be stored on site no longer than five consecutive days.
5. The applicant shall comply with the Huber Heights Fire Division regarding the onsite storage of hazardous and/or industrial materials.
6. Hours of operation shall be limited to 8:00 a.m. – 6:00 p.m., Monday through Friday.
7. The applicant shall pave and widen the driveway to minimum width of 35'.
8. The applicant shall install screening along west property line, subject to detailed development plan approval.

Section 2. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its Committees that resulted in such formal action were in meetings open to the public and in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 3. This Ordinance shall go into effect upon its passage as provided by law and the Charter of the City of Huber Heights.

Passed by Council on the _____ day of _____, 2022;
_____ Yeas; _____ Nays.

Effective Date:

AUTHENTICATION:

_____ _____
Clerk of Council Mayor

_____ _____
Date Date

COMMUNITY PLANNING INSIGHTS

128 McDaniel Street, Suite D, Dayton, OH 45405 | (937) 331-8333 | www.cpi-planning.com

August 30, 2022

Bryan RH Chodkowski, ICMA-CM
Interim City Manager
City of Huber Heights
6131 Taylorsville Rd.
Huber Heights, OH 45424

RE: Skilwies Options

Dear Mr. Chodkowski,

This letter outlines the background and options available to the city regarding the possible next steps in the Skilwies case. If the City Council desires Mr. Skilwies to continue to operate his business at this location, there are five options:

1) Rezone the property to I-1 or Planned Industrial;
2) Amend the zoning code to allow the Board of Zoning Appeals to consider Use Variances;
3) Expand the definition of a Home Occupation;
4) Expand the allowable Special Uses within the Agricultural District;
5) A combination of the above options.

If the Council only wishes to address the case at hand, the rezoning option is the most expeditious path and can be scope-limiting. However, if the Council desires to take a broader consideration of expanding business uses within the agricultural districts, I recommend expanding the definition of a home occupation or expanding the allowable special uses to include bed and breakfast establishments and vehicle repair (indoors only).

Background

Mr. Skilwies has been operating a truck and heavy equipment repair business at this location for many years. Based on complaints received in August 2021, staff initiated enforcement action because non-farm related truck and heavy equipment repair is not permitted in the agricultural district. In August 2021, the applicant requested a use variance for the diesel truck and equipment repair operations. The BZA unanimously denied the application at their October 6, 2021 meeting.

The applicant was provided with the lot split and rezoning application shortly after the BZA decision as an alternative path to allow the continued operation of the repair facility. On or about March 28, 2022, staff filed minor misdemeanor charges for the continued operation of the repair facility, and the applicant subsequently applied for a lot split and rezoning.

Current Zoning Code Options

The current zoning code provides limited options to allow Mr. Skilwies to continue his business without rezoning to I-1, I-2 or PI (Planned Industrial). The BZA cannot grant a use variance because Section

1127.03 (C) states in part ".... No variance may be granted which permits the establishment of any use which is not otherwise permitted in the district". Thus, the BZA was forced to deny the application.

The option for the Planning Commission to grant a Special Use Permit for vehicle repairs is similarly unavailable. Section 1135.10(a) and 1135.10(j) limit granting a special use permit to only those uses established under the specific zoning district. In the agricultural district, special uses are limited to private and public recreational uses, kindergartens, nurseries and daycare facilities, residential care facilities, places of worship, and private and public utilities. Seeking rezoning was the only course of action available to Mr. Skilweis under the current zoning code framework to keep the business operating at the current location.

Rezoning Options

The I-1 (Light Industrial and Mixed Use) district permits, as a Special Use, "Garages for storage, repair and servicing of mother vehicles, including but not limited to body repair; painting and engine rebuilding." If the area were to be rezoned to I-1, Mr. Skilweis must still seek special use approval from the BZA. Additionally, the land is open to all principally permitted uses within the I-1 district with very limited discretion or oversight by the city. This is the least desirable approach because it carries the greatest risk of negative impacts to surrounding properties.

The PI (Planned Industrial) district can accommodate the current use, and allows the city to restrict the range of potential future uses, hours of operation, and impose additional conditions to reduce the impacts of the use on the adjacent property owners. However, once the rezoning occurs, the land will remain zoned PI until the Council amends the zoning map, regardless of whether Mr. Skilweis sells the property or discontinues the use. Approving the PI rezoning is the shortest timeline to address the immediate issue at hand. If Council approves a rezoning and basic development plan, Mr. Skilweis could have his zoning certificate in 60 – 90 days, depending on when applications are received, and conditions contained in the rezoning / basic development plan ordinance.

Rezoning Process and Timeline:

- Council approves rezoning ordinance and basic development plan
- Required referendum period (non-emergency legislation) – 30 days
- Planning Commission review and approval of Detailed Development Plan – 30 days upon receipt of application

Zoning Text Amendment Options

If the City Council desires to accommodate this use, as well as addressing a broader range of issues, amending the zoning text is an option the Council should consider. The zoning text amendments can either provide a use variance option through the BZA, expand the definition of home occupations, or expand the special uses allowed in the agricultural district. I recommend expanding the definition of home occupations or the allowable special uses in the agricultural district as an incremental step to address this particular case. All text amendments will take 90 to 120 days to complete.

Text Amendments Timeline:

- Council adopts a motion that directs planning staff to prepare a text amendment application to the Planning Commission – 15 to 30 days
- Planning staff drafts text amendment language and application for Planning Commission consideration - 30 days

- Planning Commission holds a public hearing on text amendments – 20 to 30 days
- Planning Commission transmits recommendation to City Council – 10 days
- City Council holds a public hearing on text amendments – 30 days

Use variance

Creating two types of variances (area and use) could provide the BZA with additional tools to address unforeseen development challenges. The use variance can be beneficial in redeveloping single-purpose constructed buildings where rezoning is not desired. For example, granting a use variance to convert a vacant church in a residential neighborhood to an office, or limited commercial use, rather than rezoning the property to B-1 or B-2. Rezoning the property would open up the church to the district's entire range of allowable uses. Additionally, the variance is not subject to a referendum action.

The standards for granting a use variance are an intentionally high bar because it should be used in limited circumstances and not as an end-run around a zoning change. In this case, a use variance may have been a helpful tool for the BZA when considering the application's merits.

Expand the definition of a Home Occupation

The home occupation definition is very limiting, especially considering the number of professions that have broadened work-at-home opportunities and advances in technology that make working from a home office easier. Additionally, traditional concerns about impacts from a home occupation such as delivery vehicles have primarily vanished with the increased popularity of Etsy, Amazon and other retailers who ship directly to consumers. Fed Ex, UPS and Amazon delivery vehicles are a ubiquitous sight in all residential areas.

Regarding this case, home occupations within Huber Heights are prohibited within accessory buildings and do not include vehicle services. If Council desires to expand home occupations, I suggest the following zoning text change, which addresses this case:

Home Occupations

Home occupations may be permitted with standards when compliant with the following regulations and any other applicable sections of this resolution:

1) Such use shall be conducted entirely within the dwelling unit or an accessory building. In all cases, all activities related to home occupation must take place within the enclosed building.
2) Home occupations shall not change the character of the residential use and shall not adversely affect the uses permitted in the residential district of which they are a part.
3) The nature of home occupation as an accessory use relative to its location and conduct of activity is such that the average neighbor, under normal circumstances, would not be aware of its existence.
4) Any home occupation activities on the property shall be conducted only by persons residing in the dwelling unit and one additional person who does not reside at the home where the occupation takes place. No building or structure shall be used to operate a business, store equipment, or supplies used for a business, or serve as a location where more than four employees meet or park prior to going to work off-site but where such employees do not work anywhere on the property.
5) The maximum floor area the use may cover shall not exceed 25 percent of the total floor area of the dwelling unit.

6) One, non-illuminated sign with a maximum square footage of four square feet is permitted, without a permit, if it is mounted flat against the wall of the principal building.
7) Home occupations which provide a service shall not have more than two customers (including those arriving and waiting for service) at any one time.
8) The storage of all equipment, machinery, supplies, materials, files, and the like, shall be stored completely within the residence or accessory buildings.
9) Any need for parking generated by the conduct of such home occupation shall be accommodated on off-street parking spaces or areas that are paved for the purpose of parking.
10) No traffic shall be generated by such home occupation in greater volume than is normally expected for the residential neighborhood.
11) An auto or vehicle repair business, shop, or use shall only be allowed on lots greater than two (2) acres, and when all work is completed within an enclosed garage, and where there is no storage of vehicles being serviced outside of such garage.
12) The following are examples of permitted types of home occupations:
    (i) Clerical and other similar business services;
    (ii) Instruction in music, dance or other types of teaching with a maximum number of two students at a time;
    (iii) The office of a professional accountant, attorney, broker, consultant, insurance agent, realtor, architect, engineer, sales representative, and similar office-oriented occupations;
    (iv) Artists, sculptors, photographers, and other providers of home crafts;
    (v) Barber shop/beauty salon with a maximum of one chair;
    (vi) A licensed massage therapist who provides massage therapy for a maximum of one client at any given time; or
    (vii) Any similar use as determined by the Zoning Inspector.

Expand Special Uses

As described above, there is a limited list of allowable special uses in the agricultural district. Expanding this list and creating appropriate standards could provide relief in this case and widen the potential use of lands without impacting adjacent property owners. The potential downside is all lands zoned agricultural are subject to those expanded uses. However, unlike rezoning or variance, the special use permit expires if the use is discontinued for more than one year.

I recommend expanding the allowable special uses to include bed and breakfast establishments, automotive / vehicle repair (indoors only), home occupations in accessory buildings. To limit impacts on adjacent properties, development standards must be developed specifically for each use. These standards address minimum lot size, setbacks from neighboring properties, hours and location of operations, screening and buffering. Proposed Special Use development standards are illustrated below:

Automotive / Vehicle Repair

The following standards shall apply to any automotive or vehicle repair use:

1) Activities shall be limited to the servicing of motor vehicles with minor repair work, including engine and transmission repair. All activities shall be performed in an enclosed building.
2) Bodywork and painting shall be prohibited.

3) The storage of non-operational vehicles for longer than one week shall be prohibited. All vehicles shall be required to have a valid license plate.
4) Parking, storage, or salvaging of junk vehicles, as defined by the ORC, shall be prohibited
5) The building shall be set back a minimum of 25 feet from any adjacent residential lot and 200 feet from any adjacent residential structure. The parking for the storage of vehicles, whether operational or non-operational, shall be set back a minimum of 35 feet from any adjacent residential lot.
6) Parking areas within 100 feet of an adjacent residential lot shall be screened along said lot line by a 6-foot solid fence, or dense evergreen vegetation with a height of at least 8' feet within two years of planting.

Bed and Breakfast Establishments

The following standards shall apply to any bed and breakfast establishment:

1) Bed and breakfast establishments shall only be permitted within a single-family, detached dwelling, unless otherwise approved by the BZA.
2) The owner of the premises shall reside full-time in the dwelling, or in a dwelling on an adjoining lot.
3) No more than five bedrooms in any dwelling may be used for bed and breakfast lodging and at least one bathroom shall be dedicated to guest use.
4) One off-street parking space shall be provided for each bedroom used for guest lodging in addition to those normally required for the single-family dwelling.
5) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of the bed and breakfast establishment that will indicate from the exterior that the building is being utilized in part for any purpose other than a dwelling unit.
6) Meals provided for cost in a bed and breakfast establishment shall only be served to the guests who are lodging at the bed and breakfast establishment.
7) Guests shall be permitted to reside at the facility for not longer than three continuous weeks.

If you have any questions or concerns, please contact me at (937) 219-6384. I can prepare the required legislation once the City Council has indicated its preferred direction.

Sincerely,

Aaron K. Sorrell, AICP
Interim Planning Director

AI-8621 **Topics of Discussion** I.

Council Work Session

Meeting Date: 09/06/2022

Adopting Ordinance - City Code - Traffic Code/General Offenses Code Amendments

Submitted By: Anthony Rodgers

Department: City Council

Council Committee Review?: Council Work Session **Date(s) of Committee Review:** 09/06/2022

Audio-Visual Needs: None **Emergency Legislation?:** No

Motion/Ordinance/ Resolution No.:

Agenda Item Description or Legislation Title

Adopting Ordinance - City Code - Traffic Code/General Offenses Code Amendments

Purpose and Background

This is an ordinance to adopt amendments to the General Offenses Code and the Traffic Code of the City Code for the period of August 2, 2021 to July 14, 2022. These amendments are based on a legal review of the Ohio Revised Code by Municode.

Fiscal Impact

Source of Funds: N/A

Cost: N/A

Recurring Cost? (Yes/No): N/A

Funds Available in Current Budget? (Yes/No): N/A

Financial Implications:

Attachments

Ordinance

Exhibit A

Exhibit B

CITY OF HUBER HEIGHTS
STATE OF OHIO

ORDINANCE NO. 2022-O-

TO AMEND THE CODIFIED ORDINANCES OF THE CITY OF HUBER HEIGHTS, OHIO TO PROVIDE AMENDMENTS TO CERTAIN SECTIONS OF THE TRAFFIC CODE AND TO CERTAIN SECTIONS OF THE GENERAL OFFENSES CODE; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR SEVERABILITY; AND TO REPEAL CONFLICTING ORDINANCES.

WHEREAS, the City has contracted with Municipal Code Corporation ("Municode") to publish and periodically update the City's Codified Ordinances ("City Code") to conform with current State law as required by the Ohio Constitution; and

WHEREAS, Municode has completed its updating and revision of the Codified Ordinances of the City of Huber Heights and provided a listing of certain proposed changes to the Codified Ordinances in order to bring City law into conformity with State law.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Huber Heights, Ohio that:

Section 1. That the Codified Ordinances of Huber Heights, Ohio are hereby amended by adding the provisions in Sections 303.082, 331.01, 331.02, 331.05, 331.06, 331.07, 331.08, 331.10, 331.09, 331.13, 331.16, 331.17, 331.18, 331.19, 331.20, 331.23, 331.24, 331.25, 331.26, 331.27, 331.28, 331.29, 331.30, 331.31, 331.33, 331.37, 331.40, 333.03, 337.10, 333.031, 333.04, 333.05, 335.02, 371.01, 371.03, 371.07; and adding new Sections 303.083 and 337.25 to the Traffic Code for the period from August 2, 2021 to July 14, 2022 as provided in the attached Exhibit A which is incorporated herein by this reference.

Section 2. That the Codified Ordinances of Huber Heights, Ohio are hereby amended by adding the provisions in Sections 517.01 and 517.06 to the General Offenses Code for the period from August 2, 2021 to July 14, 2022 as provided in the attached Exhibit B which is incorporated herein by this reference.

Section 3. The addition, amendment, or removal of Huber Heights City Code Sections when passed in such form as to indicate the intention of the governing authority of the City of Huber Heights, Ohio to make the same a part of the City Code shall be deemed to be incorporated in the City Code, so that reference to the City Code includes the additions, amendments, and removals.

Section 4. Municode as the publisher of the City Code is authorized as follows:

(a) To exclude and omit any provisions of this Ordinance that are inapplicable to the City Code within the City Code and any supplement.

(b) When preparing a supplement to the City Code, to make formal, non-substantive changes in this ordinance and parts of this Ordinance included in the supplement, insofar as it is necessary to do so to embody them into a unified code in the manner consistent with other municipal codes published by Municode.

Section 5. If any section, subsection, sentence, clause, phrase or portion of this Ordinance or its application to any person or circumstance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances. The governing authority of the City of Huber Heights, Ohio hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional and, to that end, the provisions hereof are hereby declared to be severable

Section 6. All Ordinances and parts of Ordinances in conflict herewith are expressly

repealed.

Section 7. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its Committees that resulted in such formal action were in meetings open to the public and in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 8. This Ordinance shall go into effect upon its passage as provided by law and the Charter of the City of Huber Heights.

Passed by Council on the _____ day of _____ , 2022;
_____ Yeas; _____ Nays.

Effective Date:

AUTHENTICATION:

_____	_____
Clerk of Council	Mayor
_____	_____
Date	Date

EXHIBIT A

The following sections and subsections of the Traffic Code of the City Code of Huber Heights, Ohio are new or have been amended with new matter in the City Code of Huber Heights, Ohio, and are hereby approved, adopted and enacted:

303.082 Private tow-away zones.

(a) The owner of a private property may establish a private tow-away zone, but may do so only if all of the following conditions are satisfied:

(1) The owner of the private property posts on the property a sign, that is at least 18 inches by 24 inches in size, that is visible from all entrances to the property, and that includes all of the following information:

A. A statement that the property is a tow-away zone;

B. A description of persons authorized to park on the property. If the property is a residential property, the owner of the private property may include on the sign a statement that only tenants and guests may park in the private tow-away zone, subject to the terms of the property owner. If the property is a commercial property, the owner of the private property may include on the sign a statement that only customers may park in the private tow-away zone. In all cases, if it is not apparent which persons may park in the private tow-away zone, the owner of the private property shall include on the sign the address of the property on which the private tow-away zone is located, or the name of the business that is located on the property designated as a private tow-away zone.

C. If the private tow-away zone is not enforceable at all times, the times during which the parking restrictions are enforced;

D. The telephone number and the address of the place from which a towed vehicle may be recovered at any time during the day or night;

E. A statement that the failure to recover a towed vehicle may result in the loss of title to the vehicle as provided in Ohio R.C. 4505.101(B).

In order to comply with the requirements of subsection (a)(1) of this section, the owner of a private property may modify an existing sign by affixing to the existing sign stickers or an addendum in lieu of replacing the sign.

(2) A towing service ensures that a vehicle towed under this section is taken to a location from which it may be recovered that complies with all of the following:

A. It is located within 25 linear miles of the location of the private tow-away zone, unless it is not practicable to take the vehicle to a place of storage within 25 linear miles.

B. It is well-lighted.

C. It is on or within a reasonable distance of a regularly scheduled route of one or more modes of public transportation, if any public transportation is available in the municipal corporation or township in which the private tow-away zone is located.

(b) (1) If a vehicle is parked on private property that is established as a private tow-away zone in accordance with subsection (a) of this section, without the

consent of the owner of the private property or in violation of any posted parking condition or regulation, the owner of the private property may cause the removal of the vehicle by a towing service. The towing service shall remove the vehicle in accordance with this section. The vehicle owner and the operator of the vehicle are considered to have consented to the removal and storage of the vehicle, to the payment of the applicable fees established by the Public Service Commission in rules adopted under Ohio R.C. 4921.25, and to the right of a towing service to obtain title to the vehicle if it remains unclaimed as provided in Ohio R.C. 4505.101. The owner or lienholder of a vehicle that has been removed under this section, subject to subsection (c) of this section, may recover the vehicle in accordance with subsection (g) of this section.

(2) If a municipal corporation requires tow trucks and tow truck operators to be licensed, no owner of a private property located within the municipal corporation shall cause the removal and storage of any vehicle pursuant to subsection (b) of this section by an unlicensed tow truck or unlicensed tow truck operator.

(3) No towing service shall remove a vehicle from a private tow-away zone except pursuant to a written contract for the removal of vehicles entered into with the owner of the private property on which the private tow-away zone is located.

(c) If the owner or operator of a vehicle that is being removed under authority of subsection (b) of this section, arrives after the vehicle has been prepared for removal, but prior to the actual removal from the property, the towing service shall give the vehicle owner or operator oral or written notification at the time of such arrival that the vehicle owner or operator may pay a fee of not more than one-half of the fee for the removal of the vehicle established by the Public Service Commission in rules adopted under Ohio R.C. 4921.25, in order to obtain release of the vehicle. That fee may be paid by use of a major credit card unless the towing service uses a mobile credit card processor and mobile service is not available at the time of the transaction. Upon payment of that fee, the towing service shall give the vehicle owner or operator a receipt showing both the full amount normally assessed and the actual amount received and shall release the vehicle to the owner or operator. Upon its release the owner or operator immediately shall move the vehicle so that the vehicle is not parked on the private property established as a private tow-away zone without the consent of the owner of the private property or in violation of any posted parking condition or regulation.

(d) (1) Prior to towing a vehicle under subsection (b) of this section, a towing service shall make all reasonable efforts to take as many photographs as necessary to evidence that the vehicle is clearly parked on private property in violation of a private tow-away zone established under subsection (a) of this section.

The towing service shall record the time and date of the photographs taken under this section. The towing service shall retain the photographs and the record of the time and date, in electronic or printed form, for at least 30 days after the date on which the vehicle is recovered by the owner or lienholder or at least two years after the date on which the vehicle was towed, whichever is earlier.

(2) A towing service shall deliver a vehicle towed under subsection (b) of this

section to the location from which it may be recovered not more than two hours after the time it was removed from the private tow-away zone, unless the towing service is unable to deliver the motor vehicle within two hours due to an uncontrollable force, natural disaster, or other event that is not within the power of the towing service.

(e) (1) If an owner of a private property that is established as a private tow-away zone in accordance with subsection (a) of this section causes the removal of a vehicle from that property by a towing service under subsection (b) of this section, the towing service, within two hours of removing the vehicle, shall provide notice to the Police Department concerning all of the following:

A. The vehicle's license number, make, model and color;

B. The location from which the vehicle was removed;

C. The date and time the vehicle was removed;

D. The telephone number of the person from whom the vehicle may be recovered;

E. The address of the place from which the vehicle may be recovered.

(2) The Chief of Police shall maintain a record of any vehicle removed from private property in the Chief's jurisdiction that is established as a private tow-away zone of which the Chief has received notice under this section. The record shall include all information submitted by the towing service. The Chief shall provide any information in the record that pertains to a particular vehicle to a person who, either in person or pursuant to a telephone call, identifies self as the owner, operator or lienholder of the vehicle, and requests information pertaining to the vehicle.

(f) (1) When a vehicle is removed from private property in accordance with this section, within three days of the removal, the towing service or storage facility from which the vehicle may be recovered shall cause a search to be made of ~~the~~ either of the following to ascertain the identity of the owner and any lienholder of the vehicle:

(A) The records of the Bureau of Motor Vehicles; ~~to ascertain the identity of the owner and any lienholder of the motor vehicle.~~

(B) The records of any vendor or vendors, approved by the registrar of motor vehicles, that are capable of providing real-time access to owner and lienholder information. ~~The Registrar of Motor Vehicles~~

The towing service or storage facility may search the national motor vehicle title information system in order to determine the state in which the vehicle is titled. The entity that provides the record of the owner and any lienholder under this division shall ensure that such information is provided in a timely manner.

(2) Subject to subsection (f)~~(4)~~(5) of this section, the towing service or storage facility shall send notice to the vehicle owner and any known lienholder as follows:

A. Within five business days after the ~~Registrar of Motor Vehicles~~ applicable entity provides the identity of the owner and any lienholder of the motor vehicle, if the vehicle remains unclaimed, to the owner's and lienholder's last known address by certified or express mail with return receipt requested, by certified mail with electronic tracking, or by a commercial carrier service utilizing any form of delivery

requiring a signed receipt;
B. If the vehicle remains unclaimed 30 days after the first notice is sent, in the manner required under subsection ~~(f)(1)A~~ (f)(2)(A). of this section;
C. If the vehicle remains unclaimed 45 days after the first notice is sent, in the manner required under subsection (f)(1)A. of this section.
~~(2)~~ (3) Sixty days after any notice sent pursuant to subsection ~~(f)(1)~~ (f)(2) of this section is received, as evidenced by a receipt signed by any person, or the towing service or storage facility has been notified that delivery was not possible, the towing service or storage facility, if authorized under Ohio R.C. 4505.101(B), may initiate the process for obtaining a certificate of title to the motor vehicle as provided in that section.
~~(3)~~ (4) A towing service or storage facility that does not receive a signed receipt of notice, or a notification that delivery was not possible, shall not obtain, and shall not attempt to obtain, a certificate of title to the motor vehicle under Ohio R.C. 4505.101(B).
~~(4)~~ (5) With respect to a vehicle concerning which a towing service or storage facility is not eligible to obtain title under Ohio R.C. 4505.101, the towing service or storage facility need only comply with the initial notice required under subsection ~~(f)(1)A~~. (f)(2)(A) of this section.
(g) (1) The owner or lienholder of a vehicle that is removed under subsection (b) of this section may reclaim it upon both of the following:
A. Presentation of proof of ownership, which may be evidenced by a certificate of title to the vehicle, a certificate of registration for the motor vehicle or a lease agreement;
B. Payment of the following fees:
1. All applicable fees established by the Public Utilities Commission in rules adopted under Ohio R.C. 4921.25, except that the lienholder of a vehicle may retrieve the vehicle without paying any storage fee for the period of time that the vehicle was in the possession of the towing service or storage facility prior to the date the lienholder received the notice sent under subsection ~~(f)(1)A~~. (f)(2)(A) of this section;
2. If notice has been sent to the owner and lienholder as described in subsection (f) of this section, a processing fee of $25.00.
(2) A towing service or storage facility in possession of a vehicle that is removed under authority of subsection (b) of this section shall show the vehicle owner, operator or lienholder who contests the removal of the vehicle all photographs taken under subsection (d) of this section. Upon request, the towing service or storage facility shall provide a copy of all photographs in the medium in which the photographs are stored, whether paper, electronic, or otherwise.
(3) When the owner of a vehicle towed under this section retrieves the vehicle, the towing service or storage facility in possession of the vehicle shall give the owner written notice that if the owner disputes that the motor vehicle was lawfully towed, the owner may be able to file a civil action under Ohio R.C. 4513.611.
(4) Upon presentation of proof of ownership, which may be evidenced by a

certificate of title to the vehicle, a certificate of registration for the motor vehicle or a lease agreement, the owner of a vehicle that is removed under authority of subsection (b) of this section may retrieve any personal items from the vehicle without retrieving the vehicle and without paying any fee. The owner of the vehicle shall not retrieve any personal items from a vehicle if it would endanger the safety of the owner, unless the owner agrees to sign a waiver of liability. For purposes of subsection (g)(4) of this section, "personal items" do not include any items that are attached to the vehicle.
(h) No person shall remove, or cause the removal of any vehicle from private property that is established as a private tow-away zone under this section, or store such a vehicle other than in accordance with this section, or otherwise fail to comply with any applicable requirement of this section.
(i) This section does not affect or limit the operation of Ohio R.C. 4513.60 or Ohio R.C. 4513.61 to 4613.65 as they relate to property other than private property that is established as a private tow-away zone under subsection (a) of this section.
(j) Whoever violates subsection (h) of this section is guilty of a minor misdemeanor.
(k) As used in this section, "owner of a private property" or "owner of the private property" includes, with respect to a private property, any of the following:
(1) Any person who holds title to the property;
(2) Any person who is a lessee or sublessee with respect to a lease or sublease agreement for the property;
(3) A person who is authorized to manage the property;
(4) A duly authorized agent of any person listed in subsections (k)(1) to (3) of this section. (ORC 4513.601)

331.01 Driving upon right side of roadway; exceptions.
(a) Upon all roadways of sufficient width, a vehicle shall be driven upon the right half of the roadway, except as follows:
(1) When overtaking and passing another vehicle proceeding in the same direction, or when making a left turn under the rules governing such movements;
(2) When an obstruction exists making it necessary to drive to the left of the center of the highway; provided, any person so doing shall yield the right-of-way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to constitute an immediate hazard;
(3) When driving upon a roadway divided into three or more marked lanes for traffic under the rules applicable thereon;
(4) When driving upon a roadway designated and posted with signs for one-way traffic;
(5) When otherwise directed by a police officer or traffic control device.
(b) (1) Upon all roadways any vehicle proceeding at less than the prevailing and lawful speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for traffic, and far enough to the right to allow passing by faster vehicles if such passing is safe and reasonable,

except under any of the following circumstances:
A. When overtaking and passing another vehicle proceeding in the same direction;
B. When preparing for a left turn;
C. When the driver must necessarily drive in a lane other than the right-hand lane to continue on the driver's intended route.
(2) Nothing in subsection (b)(1) of this section requires a driver of a slower vehicle to compromise the driver's safety to allow overtaking by a faster vehicle.
(c) Upon any roadway having four or more lanes for moving traffic and providing for two-way movement of traffic, no vehicle shall be driven to the left of the center line of the roadway, except when authorized by official traffic control devices designating certain lanes to the left of the center of the roadway for use by traffic not otherwise permitted to use the lanes, or except as permitted under subsection (a)(2) hereof.
This subsection shall not be construed as prohibiting the crossing of the center line in making a left turn into or from an alley, private road or driveway.
(d) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.083 ~~Ohio R.C. 4511.991~~. (ORC 4511.25)

331.02 Passing to right when proceeding in opposite directions.
(a) Operators of vehicles proceeding in opposite directions shall pass each other to the right, and upon roadways having width for not more than one line of traffic in each direction, each operator shall give to the other one-half of the main traveled portion of the roadway or as nearly one-half as is reasonably possible.
(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.26)
If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.083 ~~Ohio R.C. 4511.991~~.

331.05 Overtaking, passing to left of center.
(a) No vehicle shall be driven to the left of the center of the roadway in overtaking and passing traffic proceeding in the same direction, unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made, without interfering with the safe operation of any traffic approaching from the opposite direction or any traffic overtaken. In every event the overtaking vehicle must return to an authorized lane of travel as soon as practicable and in the event the passing movement involves the use of a lane authorized for traffic approaching from the opposite direction before coming within 200 feet of any approaching vehicle.
(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.083 ~~Ohio R.C. 4511.991~~. (ORC 4511.29)

331.06 Additional restrictions on driving upon left side of roadway.
(a) No vehicle shall be driven upon the left side of the roadway under the following conditions:
(1) When approaching the crest of a grade or upon a curve in the highway, where the operator's view is obstructed within such a distance as to create a hazard in the event traffic might approach from the opposite direction;
(2) When the view is obstructed upon approaching within 100 feet of any bridge, viaduct or tunnel;
(3) When approaching within 100 feet of or traversing any intersection or railroad grade crossing.
(b) This section does not apply to vehicles upon a one-way roadway, upon a roadway where traffic is lawfully directed to be driven to the left side or under the conditions described in Section 331.01(a)(2).
(c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the

additional fine established under section 303.083 ~~Ohio R.C.~~ ~~4511.991.~~ (ORC 4511.30)

331.07 Hazardous or no passing zones.

(a) Hazardous zones, commonly called "no passing zones," shall consist of an auxiliary yellow line marked on the roadway pavement and placed parallel to the normal center line or marked lane line. When the auxiliary yellow line appears on the left side in the driver's lane of travel and to the right of the normal center line or marked lane line, no driver shall drive across the auxiliary yellow line to overtake and pass another vehicle proceeding in the same direction. When auxiliary yellow lines appear on both sides of the normal center line or marked lane line, drivers proceeding in either direction shall not drive across such auxiliary yellow lines to overtake and pass another vehicle proceeding in the same direction. No driver shall, at any other time, drive across the yellow auxiliary line when it appears in the driver's lane of travel, except to make a lawfully permitted left-hand turn under the rules governing such movement. No passing signs may also be erected facing traffic to indicate the beginning and end of each no passing zone.

When appropriate signs or markings indicating hazardous or no passing zones are in place and clearly visible, every operator of a vehicle shall obey the directions of the signs or markings, notwithstanding the distance set out in Section 331.06.

(b) Subsection (a) of this section does not apply when all of the following apply:

(1) The slower vehicle is proceeding at less than half the speed of the speed limit applicable to that location.

(2) The faster vehicle is capable of overtaking and passing the slower vehicle without exceeding the speed limit.

(3) There is sufficient clear sight distance to the left of the center or center line of the roadway to meet the overtaking and passing provisions of Section 331.05, considering the speed of the slower vehicle.

(c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.083 ~~Ohio R.C. 4511.991.~~ (ORC 4511.31)

331.08 Driving in marked lanes or continuous lines of traffic.

(a) Whenever any roadway has been divided into two or more clearly marked lanes for traffic or wherever traffic is lawfully moving in two or more substantially continuous lines in the same direction, the following rules apply:

(1) A vehicle shall be driven, as nearly as is practicable, entirely within a single lane or line of traffic and shall not be moved from such lane or line until the driver has first ascertained that such movement can be made with safety.
(2) Upon a roadway which is divided into three lanes and provides for two-way movement of traffic, a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle where the roadway is clearly visible and such center lane is clear of traffic within a safe distance, or when preparing for a left turn, or where such center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is posted with signs to give notice of such allocation.
(3) Official signs may be erected directing specified traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway, or restricting the use of a particular lane to only buses during certain hours or during all hours, and drivers of vehicles shall obey the directions of such signs.
(4) Official traffic control devices may be installed prohibiting the changing of lanes on sections of roadway and drivers of vehicles shall obey the directions of every such device.
(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.083 ~~Ohio R.C. 4511.991~~. (ORC 4511.33)

331.10 Turning at intersections.
(a) The driver of a vehicle intending to turn at an intersection shall be governed by the following rules:
(1) Approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.
(2) At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of such center line where it enters the intersection and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered. Whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection.
(3) At any intersection where traffic is restricted to one direction on one or more of

the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle, and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane of the roadway being entered lawfully available to the traffic moving in that lane.
(4) Markers, buttons or signs may be placed within or adjacent to intersections and thereby require and direct that a different course from that specified in this section be traveled by vehicles turning at an intersection, and when such markers, buttons or signs are so placed, no operator of a vehicle shall turn such vehicle at an intersection other than as directed and required by such markers, buttons or signs.
(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.083 ~~Ohio R.C. 4511.991~~. (ORC 4511.36)

331.09 Following too closely.
(a) The operator of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicle and the traffic upon and the condition of the highway.
The driver of any truck, or motor vehicle drawing another vehicle, when traveling upon a roadway outside a business or residence district shall maintain a sufficient space, whenever conditions permit, between such vehicle and another vehicle ahead so an overtaking motor vehicle may enter and occupy such space without danger. This paragraph does not prevent overtaking and passing nor does it apply to any lane specially designated for use by trucks.
Motor vehicles being driven upon any roadway outside of a business or residence district in a caravan or motorcade, shall maintain a sufficient space between such vehicles so an overtaking vehicle may enter and occupy such space without danger. This paragraph shall not apply to funeral processions.
(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.083 ~~Ohio R.C. 4511.991~~. (ORC 4511.34)

331.13 Starting and backing vehicles.

(a) No person shall start a vehicle which is stopped, standing or parked until such movement can be made with reasonable safety.

Before backing, operators of vehicles shall give ample warning, and while backing they shall exercise vigilance not to injure person or property on the street or highway.

No person shall back a motor vehicle on a freeway, except: in a rest area; in the performance of public works or official duties; as a result of an emergency caused by an accident or breakdown of a motor vehicle.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.083 ~~Ohio R.C. 4511.991~~. (ORC 4511.38)

331.16 Right-of-way at intersections.

(a) When two vehicles approach or enter an intersection from different streets or highways at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right.

(b) The right-of-way rule declared in subsection (a) hereof, is modified at through highways and otherwise as stated in this Traffic Code and Ohio R.C. Ch. 4511.

(c) Subject to compliance with any traffic control device, when two vehicles approach or enter a junction of two or more alleys from different directions at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right.

(d) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a

contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.083 ~~Ohio R.C. 4511.991~~. (ORC 4511.41)

331.17 Right-of-way when turning left.

(a) The operator of a vehicle intending to turn to the left within an intersection or into an alley, private road or driveway shall yield the right-of-way to any vehicle approaching from the opposite direction, whenever the approaching vehicle is within the intersection or so close to the intersection, alley, private road or driveway as to constitute an immediate hazard.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.083 ~~Ohio R.C. 4511.991~~. (ORC 4511.42)

331.18 Operation of vehicle at yield signs.

(a) The driver of a vehicle approaching a yield sign shall slow down to a speed reasonable for the existing conditions and, if required for safety to stop, shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. After slowing or stopping, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time the driver is moving across or within the intersection or junction of roadways. Whenever a driver is involved in a collision with a vehicle in the intersection or junction of roadways, after driving past a yield sign without stopping, the collision shall be prima-facie evidence of the driver's failure to yield the right-of-way.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the

additional fine established under section 303.083 ~~Ohio R.C. 4511.991~~. (ORC 4511.43(B))

331.19 Operation of vehicle at stop signs.

(a) Except when directed to proceed by a law enforcement officer, every driver of a vehicle approaching a stop sign shall stop at a clearly marked stop line, but if none before entering the crosswalk on the near side of the intersection, or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. After having stopped, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time the driver is moving across or within the intersection or junction of roadways.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.083 ~~Ohio R.C. 4511.991~~. (ORC 4511.43(A))

331.20 Emergency or public safety vehicles at stop signals or signs.

(a) The driver of any emergency vehicle or public safety vehicle, when responding to an emergency call, upon approaching a red or stop signal or any stop sign shall slow down as necessary for safety to traffic, but may proceed cautiously past such red or stop sign or signal with due regard for the safety of all persons using the street or highway.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.083 ~~Ohio R.C. 4511.991~~. (ORC 4511.03)

331.23 Driving onto roadway from place other than roadway: stopping at sidewalk.

(a) Subject to compliance with any traffic control device, the driver of a vehicle emerging from an alley, building, private road or driveway within a business or residence district shall stop the vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across the alley, building entrance, road or driveway, or in the event there is no sidewalk area, shall stop at the point nearest the street to be entered where the driver has a view of approaching traffic thereon.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.083 ~~Ohio R.C. 4511.991~~. (ORC 4511.431)

331.24 Right-of-way of funeral procession.

(a) As used in this section "funeral procession" means two or more vehicles accompanying the cremated remains or the body of a deceased person in the daytime when each of the vehicles has its headlights lighted and is displaying a purple and white or an orange and white pennant attached to each vehicle in such a manner as to be clearly visible to traffic approaching from any direction.

(b) Excepting public safety vehicles proceeding in accordance with Section 331.21 or when directed otherwise by a police officer, pedestrians and the operators of all vehicles shall yield the right-of-way to each vehicle that is a part of a funeral procession. Whenever the lead vehicle in a funeral procession lawfully enters an intersection, the remainder of the vehicles in the procession may continue to follow the lead vehicle through the intersection notwithstanding any traffic control devices or right-of-way provisions of this Traffic Code, provided that the operator of each vehicle exercises due care to avoid colliding with any other vehicle or pedestrian.

(c) No person shall operate any vehicle as a part of a funeral procession without having the headlights of the vehicle lighted and without displaying a purple and white or an orange and white pennant in such a manner as to be clearly visible to traffic approaching from any direction.

(d) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever

violates this section is guilty of a misdemeanor of the third degree.
If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.083 ~~Ohio R.C. 4511.991~~. (ORC 4511.451)

331.25 Driver's view and control to be unobstructed by load or persons.
(a) No person shall drive a vehicle when it is so loaded, or when there are in the front seat such number of persons, as to obstruct the view of the driver to the front or sides of the vehicle or to interfere with the driver's control over the driving mechanism of the vehicle.
(b) No passenger in a vehicle shall ride in such position as to interfere with the driver's view ahead or to the sides, or to interfere with the driver's control over the driving mechanism of the vehicle.
(c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.083 ~~Ohio R.C. 4511.991~~. (ORC 4511.70(A), (B), (D))

331.26 Driving upon street posted as closed for repair.
(a) No person shall drive upon, along or across a street or highway, or any part of a street or highway that has been closed in the process of its construction, reconstruction or repair, and posted with appropriate signs by the authority having jurisdiction to close such street or highway.
(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.083 ~~Ohio R.C. 4511.991~~. (ORC 4511.71)

331.27 Following and parking near emergency or safety vehicles.
(a) The driver of any vehicle, other than an emergency vehicle or public safety vehicle on official business, shall not follow any emergency vehicle or public safety vehicle traveling in response to an alarm closer than 500 feet, or drive into or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm, unless directed to do so by a police officer or a firefighter.
(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.083 ~~Ohio R.C. 4511.991~~. (ORC 4511.72)

331.28 Driving over fire hose.
(a) No vehicle shall, without the consent of the Fire Chief or fire official in command, be driven over any unprotected fire hose that is laid down on any street or private driveway to be used at any fire or alarm of fire.
(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.083 ~~Ohio R.C. 4511.991~~. (ORC 4511.73)

331.29 Driving through safety zone.
(a) No vehicle shall at any time be driven through or within a safety zone.
(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
If the offender commits the offense while distracted and the distracting activity is a

contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.083 ~~Ohio R.C. 4511.991~~. (ORC 4511.60)

331.30 One-way streets and rotary traffic islands.

(a) Upon a roadway designated and posted with signs for one-way traffic a vehicle shall be driven only in the direction designated. A vehicle passing around a rotary traffic island shall be driven only to the right of the rotary traffic island.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.083 ~~Ohio R.C. 4511.991~~. (ORC 4511.32)

331.31 Driving upon divided roadways.

(a) Whenever any street has been divided into two roadways by an intervening space, or by a physical barrier, or clearly indicated dividing section so constructed as to impede vehicular traffic, every vehicle shall be driven only upon the right-hand roadway, and no vehicle shall be driven over, across or within any such dividing space, barrier or median section, except through an opening, crossover or intersection established by public authority. This section does not prohibit the occupancy of such dividing space, barrier or median section for the purpose of an emergency stop or in compliance with an order of a police officer.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.083 ~~Ohio R.C. 4511.991~~. (ORC 4511.35)

331.33 Obstructing intersection, crosswalk or grade crossing.

(a) No driver shall enter an intersection or marked crosswalk or drive onto any railroad grade crossing unless there is sufficient space on the other side of the

intersection, crosswalk or grade crossing to accommodate the vehicle the driver is operating without obstructing the passage of other vehicles, pedestrians or railroad trains, notwithstanding any traffic control signal indication to proceed.
(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.083 ~~Ohio R.C. 4511.991~~. (ORC 4511.712)

331.37 Driving upon sidewalks, street lawns or curbs.
(a) No person shall drive any vehicle, other than a bicycle, upon a sidewalk or sidewalk area except upon a permanent or duly authorized temporary driveway. (ORC 4511.711)
(b) No person shall drive a vehicle on a street lawn area or the curb of a street, except upon a permanent or duly authorized temporary driveway or when otherwise lawfully authorized.
(c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.083 ~~Ohio R.C. 4511.991~~. (ORC 4511.711)

331.40 Stopping at grade crossing.
(a) (1) Except as provided in subsection (a)(2) hereof, the operator of any bus, any school vehicle, or any vehicle transporting material required to be placarded under 49 CFR Parts 100-185, before crossing at grade any track of a railroad, shall stop the vehicle, and, while so stopped, shall listen through an open door or open window and look in both directions along the track for any approaching train, and for signals indicating the approach of a train, and shall proceed only upon exercising due care after stopping, looking and listening as required by this section. Upon proceeding, the operator of such a vehicle shall cross only in a gear that will ensure there will be no necessity for changing gears while traversing the crossing

and shall not shift gears while crossing the tracks.
(2) This section does not apply at grade crossings when the Ohio Public Utilities Commission has authorized and approved an exempt crossing as provided in this subsection.
A. Any local authority may file an application with the Commission requesting the approval of an exempt crossing. Upon receipt of such a request, the Commission shall authorize a limited period for the filing of comments by any party regarding the application and then shall conduct a public hearing in the community seeking the exempt crossing designation. The Commission shall provide appropriate prior public notice of the comment period and the public hearing. By registered mail, the Commission shall notify each railroad operating over the crossing of the comment period.
B. After considering any comments or other information received, the Commission may approve or reject the application. By order, the Commission may establish conditions for the exempt crossing designation, including compliance with division (b) of 49 C.F.R. Part 392.10, when applicable. An exempt crossing designation becomes effective only when appropriate signs giving notice of the exempt designation are erected at the crossing as ordered by the Commission and any other conditions ordered by the Commission are satisfied.
C. By order, the Commission may rescind any exempt crossing designation made under this section if the Commission finds that a condition at the exempt crossing has changed to such an extent that the continuation of the exempt crossing designation compromises public safety. The Commission may conduct a public hearing to investigate and determine whether to rescind the exempt crossing designation. If the Commission rescinds the designation, it shall order the removal of any exempt crossing signs and may make any other necessary order.
(3) As used in this section:
A. "School vehicle" means any vehicle used for the transportation of pupils to and from a school or school-related function if the vehicle is owned or operated by, or operated under contract with, a public or nonpublic school.
B. "Bus" means any vehicle originally designed by its manufacturer to transport 16 or more passengers, including the driver, or carries 16 or more passengers, including the driver.
C. "Exempt crossing" means a highway rail grade crossing authorized and approved by the Public Utilities Commission under subsection (a)(2) hereof at which vehicles may cross without making the stop otherwise required by this section.
(4) Except as otherwise provided in this subsection (a)(4), whoever violates subsection (a) hereof is guilty of a minor misdemeanor. If the offender previously has been convicted of or pleaded guilty to one or more violations of subsection (a) hereof or Ohio R.C. 4511.76, 4511.761, 4511.762, 4511.764, 4511.77 or 4511.79, or a municipal ordinance that is substantially similar to any of those sections, whoever violates subsection (a) hereof is guilty of a misdemeanor of the fourth degree. (ORC 4511.63)
(b) (1) When authorized stop signs are erected at railroad grade crossings, the

operator of any vehicle shall stop within 50 but not less than 15 feet from the nearest rail of the railroad tracks and shall exercise due care before proceeding across such grade crossing.
(2) Except as otherwise provided in this subsection, whoever violates this subsection (b)(1) hereof is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.083 ~~Ohio R.C. 4511.991~~. (ORC 4511.61)

333.03 Maximum speed limits; assured clear distance ahead.
(a) No person shall operate a motor vehicle at a speed greater or less than is reasonable or proper, having due regard to the traffic, surface and width of the street or highway and any other conditions, and no person shall drive any motor vehicle in and upon any street or highway at a greater speed than will permit the person to bring it to a stop within the assured clear distance ahead.
(b) It is prima-facie lawful, in the absence of a lower limit declared or established pursuant to Ohio R.C. 4511.21 by the Ohio Director of Transportation or Council, for the operator of a motor vehicle to operate the same at a speed not exceeding the following:
(1) A. Twenty miles per hour in school zones during school recess and while children are going to or leaving school during the opening or closing hours, and when 20 miles per hour school speed limit signs are erected; except, that on controlled-access highways and expressways, if the right-of-way line fence has been erected without pedestrian opening, the speed shall be governed by subsection (b)(4) hereof and on freeways, if the right-of-way line fence has been erected without pedestrian opening, the speed shall be governed by subsection (b)(7) hereof. The end of every school zone may be marked by a sign indicating the end of the zone. Nothing in this section or in the manual and specifications for a uniform system of traffic control devices shall be construed to require school zones to be indicated by signs equipped with flashing or other lights, or giving other special notice of the hours in which the school zone speed limit is in effect.
B. As used in this section, "school" means all of the following:
(i) Any ~~any~~ school chartered under Ohio R.C. 3301.16; ~~and any~~
(ii) Any nonchartered school that during the preceding year filed with the Department of Education in compliance with rule 3301-35-08 of the Ohio Administrative Code, a copy of the school's report for the parents of the school's pupils certifying that the school meets Ohio minimum standards for nonchartered,

nontax-supported schools and presents evidence of this filing to the jurisdiction from which it is requesting the establishment of a school zone.

(iii) Any preschool education program operated by an educational service center that is located on a street or highway with a speed limit of forty-five miles per hour or more, when the educational service center in writing requests that the county engineer of the county in which the program is located create a school zone at the location of that program. Upon receipt of such a written request, the county engineer shall create a school zone at that location by erecting the appropriate signs.

C. As used in this section, "school zone" means that portion of a street or highway passing a school fronting upon the street or highway that is encompassed by projecting the school property lines to the fronting street or highway. Upon request from the Municipality for streets and highways under its jurisdiction, the Ohio Director of Transportation may extend the traditional school zone boundaries. The distances in subsections (b)(1)C.1. to 3. hereof shall not exceed 300 feet per approach per direction and are bounded by whichever of the following distances or combinations thereof the Director approves as most appropriate:

1. The distance encompassed by projecting the school building lines normal to the fronting highway and extending a distance of 300 feet on each approach direction;
2. The distance encompassed by projecting the school property lines intersecting the fronting highway and extending a distance of 300 feet on each approach direction;
3. The distance encompassed by the special marking of the pavement for a principal school pupil crosswalk plus a distance of 300 feet on each approach direction of highway;

Nothing in this section shall be construed to invalidate the Director's initial action on August 9, 1976, establishing all school zones at the traditional school zone boundaries defined by projecting school property lines, except when those boundaries are extended as provided in subsections (b)(1)A. and C. hereof.

D. As used in this subsection, "crosswalk" has the meaning given that term in Section 301.09. The Director may, upon request by resolution of Council, and upon submission by the Municipality of such engineering, traffic and other information as the Director considers necessary, designate a school zone on any portion of a State route lying within the Municipality that includes a crosswalk customarily used by children going to or leaving a school during recess and opening and closing hours, whenever the distance, as measured in a straight line, from the school property line nearest the crosswalk to the nearest point of the crosswalk is no more than 1,320 feet. Such a school zone shall include the distance encompassed by the crosswalk and extending 300 feet on each approach direction of the State route;

(2) Twenty-five miles per hour in all other portions of the Municipality, except on State routes outside business districts, through highways outside business districts and alleys;

(3) Thirty-five miles per hour on all State routes or through highways within the Municipality outside business districts, except as provided in subsections (b)(4) and

(5) hereof;
(4) Fifty miles per hour on controlled-access highways and expressways within the Municipality, except as provided in divisions (b)(8), (9), (10), (11), and (12) of this section;
(5) Fifty miles per hour on State routes within the Municipality outside urban districts unless a lower prima-facie speed is established as further provided in this section;
(6) Fifteen miles per hour on all alleys within the Municipality;
(7) Fifty-five miles per hour on freeways with paved shoulders inside the Municipality other than freeways as provided in subsection (b)(10) and (8);
(8) Sixty miles per hour for on rural expressways with traffic control signals and on all portions of rural divided highways, except as provided in divisions (b)(9) and (10) of this section;
(9) Sixty-five miles per hour on rural expressways without traffic control signals;
(10) Seventy miles per hour on all rural freeways;
(11) Fifty-five miles per hour on all portions of freeways or expressways in congested areas as determined by the Director and that are located within a municipal corporation or within an interstate freeway outerbelt, except as provided in division (b)(12) of this section;
(12) Sixty-five miles per hour on all portions of freeways or expressways without traffic control signals in urban areas.
(c) It is prima-facie unlawful for any person to exceed any of the speed limitations in subsection (b)(1)A. to (b)(6) hereof, or any declared or established pursuant to this section by the Director or local authorities and it is unlawful for any person to exceed any of the speed limitations in subsection (d) hereof. No person shall be convicted of more than one violation of this section for the same conduct, although violations of more than one provision of this section may be charged in the alternative in a single affidavit.
(d) No person shall operate a motor vehicle upon a street or highway as follows:
(1) At a speed exceeding 55 miles per hour, except upon a highway, expressway or freeway as provided in subsection (b)(8), (9), (10) and (12) hereof;
(2) At a speed exceeding 60 miles per hour upon a highway as provided in subsection (b)(8) hereof;
(3) At a speed exceeding 65 miles per hour upon an expressway as provided in subsection (b)(9) hereof, except upon a freeway as provided in subsection (b)(10) hereof;
(4) At a speed exceeding 70 miles per hour upon a freeway as provided in subsection (b)(10) hereof;
(5) At a speed exceeding the posted speed limit upon a highway, expressway or freeway for which the Director has determined and declared a speed limit pursuant to Ohio R.C. 4511.21(I)(2) or (L)(2).
(e) In every charge of violation of this section the affidavit and warrant shall specify the time, place and speed at which the defendant is alleged to have driven, and in charges made in reliance upon subsection (c) hereof also the speed which

subsections (b)(1)A. to (b)(6) hereof, or a limit declared or established pursuant to this section declares is prima-facie lawful at the time and place of such alleged violation, except that in affidavits where a person is alleged to have driven at a greater speed than will permit the person to bring the vehicle to a stop within the assured clear distance ahead the affidavit and warrant need not specify the speed at which the defendant is alleged to have driven.
(f) When a speed in excess of both a prima-facie limitation and a limitation in subsection (d) hereof is alleged, the defendant shall be charged in a single affidavit, alleging a single act, with a violation indicated of both subsections (b)(1)A. to (b)(6) hereof, or of a limit declared or established pursuant to this section by the Director or local authorities, and of the limitation in subsection (d) hereof. If the court finds a violation of subsection (b)(1)A. to (b)(6) hereof, or a limit declared or established pursuant to this section has occurred, it shall enter a judgment of conviction under such subsection and dismiss the charge under subsection (d) hereof. If it finds no violation of subsections (b)(1)A. to (b)(6) hereof or a limit declared or established pursuant to this section, it shall then consider whether the evidence supports a conviction under subsection (d) hereof.
(g) Points shall be assessed for violation of a limitation under subsection (d) hereof in accordance with Ohio R.C. 4510.036.
(h) Whenever, in accordance with Ohio R.C. 4511.21 or this section, the speed limitations as established herein have been altered, either higher or lower, and the appropriate signs giving notice have been erected as required, operators of motor vehicles shall be governed by the speed limitations set forth on such signs. It is prima-facie unlawful for any person to exceed the speed limits posted upon such signs.
(i) As used in this section:
(1) "Interstate system" has the same meaning as in 23 U.S.C. 101.
(2) "Commercial bus" means a motor vehicle designed for carrying more than nine passengers and used for the transportation of persons for compensation.
(3) "Noncommercial bus" includes but is not limited to a school bus, or a motor vehicle operated solely for the transportation of persons associated with a charitable or nonprofit organization.
(4) "Outerbelt" means a portion of a freeway that is part of the interstate system and is located in the outer vicinity of a major municipal corporation or group of municipal corporations, as designated by the Director.
(5) "Rural" means an area outside urbanized areas, and outside of a business or urban district, and areas that extend within urbanized areas where the roadway characteristics remain mostly unchanged from those outside the urbanized areas.
(6) "Urbanized area" has the same meaning as in 23 U.S.C. 101.
(7) "Divided" means a roadway having two or more travel lanes for vehicles moving in opposite directions and that is separated by a median of more than four feet, excluding turn lanes.
(j) (1) A violation of any provision of this section is one of the following:
A. Except as otherwise provided in subsections (j)(1)B., (1)C., (2) and (3) of this

section, a minor misdemeanor;
B. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to two violations of any provision of this section or of any provision of Ohio R.C. 4511.21 or a municipal ordinance that is substantially similar to any provision of this section, a misdemeanor of the fourth degree;
C. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to three or more violations of any provision of this section or of any provision of Ohio R.C. 4511.21 or a municipal ordinance that is substantially similar to any provision of this section, a misdemeanor of the third degree.
(2) If the offender has not previously been convicted of or pleaded guilty to a violation of any provision of Ohio R.C. 4511.21 or of any provision of a municipal ordinance that is substantially similar to Ohio R.C. 4511.21 and operated a motor vehicle faster than 35 miles an hour in a business district of a municipal corporation, faster than 50 miles an hour in other portions of a municipal corporation, or faster than 35 miles an hour in a school zone during recess or while children are going to or leaving school during the school's opening or closing hours, a misdemeanor of the fourth degree.
(3) Notwithstanding subsection (j)(1) of this section, if the offender operated a motor vehicle in a construction zone where a sign was then posted in accordance with Ohio R.C. 4511.98, the court, in addition to all other penalties provided by law, shall impose upon the offender a fine of two times the usual amount imposed for the violation. No court shall impose a fine of two times the usual amount imposed for the violation upon an offender if the offender alleges, in an affidavit filed with the court prior to the offender's sentencing, that the offender is indigent and is unable to pay the fine imposed pursuant to this subsection and if the court determines that the offender is an indigent person and unable to pay the fine.
(4) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.083 ~~Ohio R.C. 4511.991~~. (ORC 4511.21)

333.031 Approaching a stationary public safety, emergency or road service vehicle.
(a) The driver of a motor vehicle, upon approaching a stationary public safety vehicle, emergency vehicle, road service vehicle, waste collection vehicle, vehicle used by the Public Utilities Commission to conduct motor vehicle inspections in accordance with Ohio R.C. 4923.04 and 4923.06 or a highway maintenance vehicle that is displaying the appropriate visual signals by means of flashing, oscillating or rotating lights, as prescribed in Section 337.16, shall do either of the following:
(1) If the driver of the motor vehicle is traveling on a street or highway that consists of at least two lanes that carry traffic in the same direction of travel as that of the driver's motor vehicle, the driver shall proceed with due caution and, if possible with due regard to the road, weather, and traffic conditions, shall change lanes into a lane that is not adjacent to that of the stationary public safety vehicle,

emergency vehicle, road service vehicle, waste collection vehicle, vehicle used by the Public Utilities Commission to conduct motor vehicle inspections in accordance with Ohio R.C. 4923.04 and 4923.06 or a highway maintenance vehicle.
(2) If the driver is not traveling on a street or highway of a type described in subsection (a)(1) of this section, or if the driver is traveling on a highway of that type but it is not possible to change lanes or if to do so would be unsafe, the driver shall proceed with due caution, reduce the speed of the motor vehicle, and maintain a safe speed for the road, weather and traffic conditions.
(b) This section does not relieve the driver of a public safety vehicle, emergency vehicle, road service vehicle, waste collection vehicle, vehicle used by the Public Utilities Commission to conduct motor vehicle inspections in accordance with Ohio R.C. 4923.04 and 4923.06, or a highway maintenance vehicle from the duty to drive with due regard for the safety of all persons and property upon the highway.
(c) No person shall fail to drive a motor vehicle in compliance with subsection (a)(1) or (2) of this section when so required by subsection (a) of this section.
(d) (1) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
(2) Notwithstanding Section 303.99(b), upon a finding that a person operated a motor vehicle in violation of subsection (c) of this section, the court, in addition to all other penalties provided by law, shall impose a fine of two times the usual amount imposed for the violation.
(3) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.083 ~~Ohio R.C. 4511.991~~.
(e) The offense established under this section is a strict liability offense and Ohio R.C. 2901.20 does not apply. The designation of this offense as a strict liability offense shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense. (ORC 4511.213)

333.04 Stopping vehicle; slow speed; posted minimum speeds.
(a) No person shall stop or operate a vehicle at such an unreasonably slow speed as to impede or block the normal and reasonable movement of traffic, except when stopping or reduced speed is necessary for safe operation or to comply with law.
(b) Whenever, in accordance with Ohio R.C. 4511.22(B), the minimum speed limit of a controlled-access highway, expressway or freeway has been declared and the appropriate signs giving notice have been erected as required, operators of motor vehicles shall be governed by the speed limitations set forth on such signs. No person shall operate a motor vehicle below the speed limits posted upon such signs except when necessary for safe operation or in compliance with law.

(c) In a case involving a violation of this section, the trier of fact, in determining whether the vehicle was being operated at an unreasonably slow speed, shall consider the capabilities of the vehicle and its operator.
(d) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.083 ~~Ohio R.C. 4511.991~~. (ORC 4511.22)

333.05 Speed limitations over bridges.
(a) No person shall operate a vehicle over any bridge or other elevated structure constituting a part of a street at a speed which is greater than the maximum speed that can be maintained with safety to such bridge or structure, when such structure is posted with authorized signs stating such maximum speed. Such signs shall be erected and maintained at a distance of at least 100 feet before each end of such structure.
(b) Upon the trial of any person charged with a violation of this section, proof of the determination of the maximum speed and the existence of such signs shall constitute prima-facie evidence of the maximum speed which can be maintained with safety to such bridge or structure
(c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.083 ~~Ohio R.C. 4511.991~~. (ORC 4511.23)

335.02 Permitting operation without valid license; one license permitted.
(a) No person shall permit the operation of a motor vehicle upon any public or private property used by the public for purposes of vehicular travel or parking knowing the operator does not have a valid driver's license issued to the operator by the Registrar of Motor Vehicles under Ohio R.C. Chapter 4507 or a valid commercial driver's license issued under Ohio R.C. Chapter 4506.

(b) No person shall receive a driver's license, or a motorcycle operator's endorsement of a driver's or commercial driver's license, temporary instruction permit, or identification card unless and until he surrenders to the Registrar or deputy registrar all valid licenses, temporary instruction permits, and identification cards issued to him by another jurisdiction recognized by the State of Ohio. No person shall be permitted to have more than one valid license at any time. (ORC 4507.02)
(c) (1) Except as otherwise provided in this subsection, whoever violates subsection (a) hereof is guilty of an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding Ohio R.C. 2929.28(A)(2)(a), the offender may be fined up to $1,000.00 and, notwithstanding Ohio R.C. 2929.27(A)(3), the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to 500 hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under Ohio R.C. 2705.02(A) that may be filed in the underlying case. If, within three years of the offense, the offender previously has been convicted of or pleaded guilty to two or more violations of Ohio R.C. 4507.02 or a substantially equivalent municipal ordinance, the offense is a misdemeanor of the first degree.
(2) Whoever violates subsection (b) hereof is guilty of a misdemeanor of the first degree. (ORC 4507.02, 4507.99)

371.01 Right-of-way in crosswalk.
(a) When traffic control signals are not in place, not in operation or are not clearly assigning the right-of-way, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield or if required by Section 313.09, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.
(b) No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close as to constitute an immediate hazard.
(c) Subsection (a) hereof does not apply under the conditions stated in Section 371.03(b).
(d) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass the stopped vehicle.
(e) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or

traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.083 ~~Ohio R.C. 4511.991~~. (ORC 4511.46)

371.03 Crossing roadway outside crosswalk; diagonal crossings at intersections.
(a) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.
(b) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all traffic upon the roadway.
(c) Between adjacent intersections at which traffic control signals are in operation, pedestrians shall not cross at any place except in a marked crosswalk.
(d) No pedestrian shall cross a roadway intersection diagonally unless authorized by official traffic control devices; and, when authorized to cross diagonally, pedestrians shall cross only in accordance with the official traffic control devices pertaining to such crossing movements.
(e) This section does not relieve the operator of a vehicle from exercising due care to avoid colliding with any pedestrian upon any roadway.
(f) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.083 ~~Ohio R.C. 4511.991~~. (ORC 4511.48)

371.07 Right-of-way on sidewalk.
(a) The driver of a vehicle shall yield the right-of-way to any pedestrian on a sidewalk.
(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the

fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under section 303.083 ~~Ohio R.C. 4511.991~~. (ORC 4511.441)

SECTION 303.083 Enhanced penalty for committing moving violation while distracted if distraction is contributing factor to commission of violation.

(a) As used in this section and each section referenced in division (b) of this section, all of the following apply:
(1) "Distracted" means doing either of the following while operating a vehicle:
a. Using a handheld electronic wireless communications device, as defined in Ohio R.C. 4511.204, except when utilizing any of the following:
i. The device's speakerphone function;
ii. A wireless technology standard for exchanging data over short distances;
iii. A "voice-operated or hands-free" device that allows the person to use the electronic wireless communications device without the use of either hand except to activate, deactivate, or initiate a feature or function;
iv. Any device that is physically or electronically integrated into the motor vehicle.
b. Engaging in any activity that is not necessary to the operation of a vehicle and impairs, or reasonably would be expected to impair, the ability of the operator to drive the vehicle safely.
(2) "Distracted" does not include operating a motor vehicle while wearing an earphone or earplug over or in both ears at the same time. A person who so wears earphones or earplugs may be charged with a violation of Ohio R.C. 4511.84.
(3) "Distracted" does not include conducting any activity while operating a utility service vehicle or a vehicle for or on behalf of a utility, provided that the driver of the vehicle is acting in response to an emergency, power outage, or a circumstance affecting the health or safety of individuals.
As used in division (a)(3) of this section:
(1) "Utility" means an entity specified in division (A), (C), (D), (E), or (G) of Ohio R.C. 4905.03.
(2) "Utility service vehicle" means a vehicle owned or operated by a utility.
(b) If an offender violates Ohio R.C. 4511.03, 4511.051, 4511.12, 4511.121, 4511.132, 4511.21, 4511.211, 4511.213, 4511.22, 4511.23, 4511.25, 4511.26, 4511.27, 4511.28, 4511.29, 4511.30, 4511.31, 4511.32, 4511.33, 4511.34, 4511.35, 4511.36, 4511.37, 4511.38, 4511.39, 4511.40, 4511.41, 4511.42, 4511.43, 4511.431, 4511.44, 4511.441, 4511.451, 4511.46, 4511.47, 4511.54, 4511.55, 4511.57, 4511.58, 4511.59, 4511.60, 4511.61, 4511.64, 4511.71, 4511.711, 4511.712, 4511.713, 4511.72, or 4511.73 or a substantially equivalent municipal ordinance while distracted and the distracting activity is a contributing

factor to the commission of the violation, the offender is subject to the applicable penalty for the violation and, notwithstanding Ohio R.C. 2929.28 , is subject to an additional fine of not more than one hundred dollars as follows:

(1) Subject to Traffic Rule 13, if a law enforcement officer issues an offender a ticket, citation, or summons for a violation of any of the aforementioned sections of the Revised Code that indicates that the offender was distracted while committing the violation and that the distracting activity was a contributing factor to the commission of the violation, the offender may enter a written plea of guilty and waive the offender's right to contest the ticket, citation, or summons in a trial provided that the offender pays the total amount of the fine established for the violation and pays the additional fine of one hundred dollars.

In lieu of payment of the additional fine of one hundred dollars, the offender instead may elect to attend a distracted driving safety course, the duration and contents of which shall be established by the director of public safety. If the offender attends and successfully completes the course, the offender shall be issued written evidence that the offender successfully completed the course. The offender shall be required to pay the total amount of the fine established for the violation, but shall not be required to pay the additional fine of one hundred dollars, so long as the offender submits to the court both the offender's payment in full and such written evidence.

(2) If the offender appears in person to contest the ticket, citation, or summons in a trial and the offender pleads guilty to or is convicted of the violation, the court, in addition to all other penalties provided by law, may impose the applicable penalty for the violation and may impose the additional fine of not more than one hundred dollars.

If the court imposes upon the offender the applicable penalty for the violation and an additional fine of not more than one hundred dollars, the court shall inform the offender that, in lieu of payment of the additional fine of not more than one hundred dollars, the offender instead may elect to attend the distracted driving safety course described in division (B)(1) of this section. If the offender elects the course option and attends and successfully completes the course, the offender shall be issued written evidence that the offender successfully completed the course. The offender shall be required to pay the total amount of the fine established for the violation, but shall not be required to pay the additional fine of not more than one hundred dollars, so long as the offender submits to the court the offender's payment and such written evidence.

(ORC 4511.991)

SECTION 337.25 SMV's, Farm machinery, animal-drawn vehicles.

(a) Definitions.

(1) As used in this section:

a. *Boat trailer* means any vehicle designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a street or highway for a distance of no more than ten miles and

at a speed of twenty-five miles per hour or less.
b. *Slow-moving vehicle* and *SMV* mean a boat trailer, unit of farm machinery, road construction machinery, or other machinery designed by the manufacturer to operate at a speed of twenty-five miles per hour or less. "Slow-moving vehicle" and "SMV" do not include a bicycle, motorized bicycle, electric bicycle, or animal-drawn vehicle.

(b) Requirements for SMV's.

(1) Except as otherwise provided, no person shall operate an SMV on a street or highway as follows:
a. At a speed exceeding twenty-five miles per hour;
b. Without displaying the triangular SMV emblem mounted in accordance with division (b)(2) of this section.
(2) The SMV emblem shall be mounted so as to be visible from a distance of not less than five hundred feet to the rear. In accordance with Ohio R.C. ch. 119, the director of public safety shall adopt standards and specifications for the design and position of mounting the SMV emblem. The standards and specifications for the SMV emblem shall correlate with and, so far as possible, conform with those approved by the American society of agricultural engineers.
(3) A person may operate an SMV on a street or highway without displaying the triangular SMV emblem when any of the following apply:
a. The SMV is being used in actual construction and maintenance work in an area guarded by a flagperson, or where flares are used.
b. The SMV is operating or traveling within the limits of a construction area designated by the director of transportation, a city engineer, or the county engineer of the several counties, when such construction area is marked in accordance with requirements of the director and the manual of uniform traffic control devices, as set forth in Ohio R.C. 4511.09.

(4) No person shall display an SMV emblem on any of the following:
a. Any vehicle not required to use the SMV emblem by this subsection or subsections (c) or (d) of this section;

b. An SMV being transported upon any other vehicle;
c. Any stationary object on the highway.
(5) No person shall sell, lease, rent, or operate an SMV, except a unit designed to be completely mounted on a primary power unit that is manufactured or assembled on or after April 1, 1966, unless it is equipped with an SMV emblem mounting device.
(6) Whoever violates this subsection is guilty of a minor misdemeanor.

(c) *Farm machinery.*

(1) No person shall sell, lease, rent, or operate on a street or highway any unit of farm machinery that is designed by its manufacturer to operate at a speed greater

than twenty-five miles per hour unless the unit displays both of the following:
a. The SMV emblem mounted in accordance with division (b)(2) of this section.
b. A speed identification symbol that does both of the following:
i. Meets the specifications contained in the American society of agricultural engineers standard ANSI/ASAE S584 JAN2005, agricultural equipment: speed identification symbol (SIS);
ii. Indicates the maximum speed in miles per hour at which the unit of farm machinery is designed by its manufacturer to operate.
(2) No person operating a tractor on a street or highway that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour and that is towing, pulling, or otherwise drawing a unit of farm machinery while operating at a speed greater than twenty-five miles per hour shall fail to display both of the following on the unit of farm machinery:
a. The SMV emblem;
b. The speed identification symbol that matches the speed identification symbol required to be displayed on the agricultural tractor.
(3) No person shall operate an agricultural tractor that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour unless the person possesses documentation published or provided by the manufacturer indicating the maximum speed in miles per hour at which the manufacturer designed the agricultural tractor to operate.
(4) Whoever violates this subsection is guilty of a minor misdemeanor.
(d) *Animal-drawn vehicles.*
(1) Except as otherwise provided in division (d)(4) of this section, no person shall operate an animal-drawn vehicle on a street or highway unless it is equipped with and displays, at the times specified in Ohio R.C. 4513.03, both of the following:
a. At least one lamp displaying a white light visible from a distance of not less than one thousand feet to the front of the animal-drawn vehicle;
b. Two lamps displaying red light visible from a distance of not less than one thousand feet to the rear of the animal-drawn vehicle, or as an alternative, one lamp displaying a red light visible from a distance of not less than one thousand feet to the rear and two red reflectors visible from all distances of six hundred feet to one hundred feet to the rear when illuminated by the lawful lower beams of headlamps.
(2) Except as otherwise provided in division (d) (4) of this section, no person shall operate an animal-drawn vehicle on a street or highway unless it is equipped with and displays, at all times, all of the following:
a. One yellow flashing lamp displaying yellow light that is visible from a distance of not less than one thousand feet and that is mounted in either of the following positions:
i. On the top most portion of the rear of the animal-drawn vehicle;
II. On the top of the animal-drawn vehicle.
b. At least one of the following:

(i) An SMV emblem mounted in accordance with division (b)(2)of this section;
(ii) Micro-prism reflective tape that is visible from a distance of not less than five hundred feet to the rear when illuminated by the lawful lower beams of headlamps;
(iii) Both an SMV emblem and micro-prism reflective tape, as specified in this division.
Lamps and micro-prism reflective tape required by this division shall meet standards and specifications adopted by the director of public safety under this section.
(3) The director of public safety, in accordance with Ohio R.C. ch. 119, shall adopt rules establishing standards and specifications for the position and mounting of the lamps and micro-prism reflective tape required by this section. The rules shall only permit the micro-prism reflective tape to be red, amber, white, or silver in color.
(4) a. Divisions (1) and (2) of this section do not apply to the operator of animal-drawn agricultural equipment who is not transporting any livestock or a person other than the operator.
b. No operator described in division (D)(1) of this section shall operate animal-drawn agricultural equipment unless it is equipped with and displays, at all times, the SMV emblem mounted in accordance with division (b)(2) of this section.
c. As used in this division (d)4, "animal-drawn agricultural equipment" means equipment drawn by the muscular power of an animal that is used solely for agricultural purposes. "Animal-drawn agricultural equipment" includes any of the following:
(i) A plow;
(ii) A manure spreader.
(iii) A thresher.
(5) Whoever violates this division is guilty of a minor misdemeanor.
(e) *Strict liability.* The offenses established under this section are strict liability offenses, and Ohio R.C. 2901.20 does not apply. The designation of these offenses as strict liability offenses shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense.
(ORC 4513.11, ORC 4513.112, ORC 4513.113, ORC 4513.114, ORC 4513.115)

The following section and subsections of the Municipal Code have been repealed in the Municipal Code, and are hereby deleted and removed from the Municipal Code:

337.10 Lights on slow-moving vehicles; emblem required.
(a) All vehicles other than bicycles, including animal-drawn vehicles and vehicles referred to in Section 337.01(c), not specifically required to be equipped with lights or other lighting devices by Section 337.02 to 337.09, shall at all times specified in Section 337.02, be equipped with at least one light displaying a white light visible from a distance of not less than 1,000 feet to the front of the vehicle, and also shall be equipped with two lights displaying red light visible from a distance of not less than 1,000 feet to the rear of the vehicle, or as an alternative, one light displaying

a red light visible from a distance of not less than 1,000 feet to the rear and two red reflectors visible from all distances of 600 feet to 100 feet to the rear when illuminated by the lawful lower beams of headlights.
Lights and reflectors required or authorized by this section shall meet standards adopted by the Ohio Director of Public Safety.
(b) All boat trailers, farm machinery and other machinery, including all road construction machinery, upon a street or highway, except when being used in actual construction and maintenance work in an area guarded by a flagperson, or where flares are used, or when operating or traveling within the limits of a construction area designated by the Ohio Director of Transportation, or the Municipal or County Engineer, when such construction area is marked in accordance with requirements of the Director and the Manual of Uniform Traffic Control Devices, as set forth in Ohio R.C. 4511.09, which is designed for operation at a speed of 25 miles per hour or less shall be operated at a speed not exceeding 25 miles per hour, and shall display a triangular slow-moving vehicle emblem (SMV). The emblem shall be mounted so as to be visible from a distance of not less than 500 feet to the rear. The Ohio Director of Public Safety shall adopt standards and specifications for the design and position of mounting the SMV emblem. The standards and specifications for SMV emblems referred to in this section shall correlate with and, so far as possible, conform with those approved by the American Society of Agricultural Engineers.
A unit of farm machinery that is designed by its manufacturer to operate at a speed greater than 25 miles per hour may be operated on a street or highway at a speed greater than 25 miles per hour provided it is operated in accordance with this section.
As used in this subsection (b), "machinery" does not include any vehicle designed to be drawn by an animal.
(c) The use of the SMV emblem shall be restricted to animal-drawn vehicles, and to the slow-moving vehicles specified in subsection (b) hereof operating or traveling within the limits of the highway. Its use on slow-moving vehicles being transported upon other types of vehicles or on any other type of vehicle or stationary object on the highway is prohibited.
(d) (1) No person shall sell, lease, rent or operate any boat trailer, farm machinery or other machinery defined as a slow-moving vehicle in subsection (b) hereof, except those units designed to be completely mounted on a primary power unit, which is manufactured or assembled on or after April 1, 1966, unless the vehicle is equipped with a slow-moving vehicle emblem mounting device as specified in subsection (b) hereof.
(2) No person shall sell, lease, rent, or operate on a street or highway any unit of farm machinery that is designed by its manufacturer to operate at a speed greater than 25 miles per hour unless the unit displays a slow-moving vehicle emblem as specified in subsection (b) of this section and a speed identification symbol that meets the specifications contained in the American Society of Agricultural Engineers Standard ANSI/ASAE S584 JAN2005, agricultural equipment; speed identification

symbol (SIS).
(e) Any boat trailer, farm machinery, or other machinery defined as a slow-moving vehicle in subsection (b) of this section, in addition to the use of the slow-moving vehicle emblem, and any unit of farm machinery that is designed by its manufacturer to operate at a speed greater than 25 miles per hour, in addition to the display of a speed identification symbol may be equipped with a red flashing light that shall be visible from a distance of not less than 1,000 feet to the rear at all times specified in Section 337.02. When a double-faced light is used, it shall display amber light to the front and red light to the rear.
In addition to the lights described in this subsection, farm machinery and motor vehicles escorting farm machinery may display a flashing, oscillating or rotating amber light, as permitted by Section 337.16, and also may display simultaneously flashing turn signals or warning lights, as permitted by that section.
(f) Every animal-drawn vehicle upon a street or highway shall at all times be equipped in one of the following ways:
(1) With a slow-moving vehicle emblem complying with subsection (b) hereof;
(2) With alternate reflective material complying with rules adopted under this subsection (f);
(3) With both a slow-moving vehicle emblem and alternate reflective material as specified in this subsection (f).
The Ohio Director of Public Safety, subject to Ohio R.C. Chapter 119, shall adopt rules establishing standards and specifications for the position of mounting of the alternate reflective material authorized by this subsection (f). The rules shall permit, as a minimum, the alternate reflective material to be black, gray or silver in color. The alternate reflective material shall be mounted on the animal-drawn vehicle so as to be visible at all times specified in Section 337.02, from a distance of not less than 500 feet to the rear when illuminated by the lawful lower beams of headlamps.
(g) Every unit of farm machinery that is designed by its manufacturer to operate at a speed greater than 25 miles per hour shall display a slow-moving vehicle emblem and a speed identification symbol that meets the specifications contained in the American Society of Agricultural Engineers Standard ANSI/ASAE S584 JAN2005, agricultural equipment; speed identification symbol (SIS) when the unit is operated upon a street or highway, irrespective of the speed at which the unit is operated on the street or highway. The speed identification symbol shall indicate the maximum speed in miles per hour at which the unit of farm machinery is designed by its manufacturer to operate. The display of the speed identification symbol shall be in accordance with the standard prescribed in this subsection.
If an agricultural tractor that is designed by its manufacturer to operate at a speed greater than 25 miles per hour is being operated on a street or highway at a speed greater than 25 miles per hour and is towing, pulling or otherwise drawing a unit of farm machinery, the unit of farm machinery shall display a slow-moving vehicle emblem and a speed identification symbol that is the same as the speed identification symbol that is displayed on the agricultural tractor.

(h) When an agricultural tractor that is designed by its manufacturer to operate at a speed greater than 25 miles per hour is being operated on a street or highway at a speed greater than 25 miles per hour, the operator shall possess some documentation published or provided by the manufacturer indicating the maximum speed in miles per hour at which the manufacturer designed the agricultural tractor to operate.
(i) As used in this section, "boat trailer" means any vehicle designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a street or highway for a distance of no more than ten miles and at a speed of 25 miles per hour or less.
(j) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4513.11)

EXHIBIT B

The following sections and subsections of the General Offenses Code of the City Code of Huber Heights, Ohio are new or have been amended with new matter in the City Code of Huber Heights, Ohio, and are hereby approved, adopted and enacted:

517.01 Definitions.
As used in this chapter:
Bookmaking means the business of receiving or paying off bets.
Bet means the hazarding of anything of value upon the result of an event, undertaking or contingency, but does not include a bona fide business risk.
Scheme of chance means a slot machine unless authorized under Ohio R.C. Chapter 3772, lottery unless authorized under Ohio R.C. Chapter 3770, numbers game, pool conducted for profit, or other scheme in which a participate gives a valuable consideration for a chance to win a prize, but does not include bingo, a skill-based amusement machine, or a pool not conducted for profit. "Scheme of chance" includes the use of an electronic device to reveal the results of a game entry if valuable consideration is paid, directly or indirectly, for a chance to win a prize. Valuable consideration is deemed to be paid for a chance to win a prize in the following instances:
(1) Less than 50 percent of the goods or services sold by a scheme of chance operator in exchange for game entries are used or redeemed by participants at any one location;
(2) Less than 50 percent of participants who purchase goods or services at any one location do not accept, use or redeem the goods or services sold or purportedly sold;
(3) More than 50 percent of prizes at any one location are revealed to participants through an electronic device simulating a game of chance or a "casino game" as defined in Ohio R.C. 3772.01;
(4) The good or service sold by a scheme of chance operator in exchange for a game entry cannot be used or redeemed in the manner advertised;
(5) A participant pays more than fair market value for goods or services offered by a scheme of chance operator in order to receive one or more game entries;
(6) A participant may use the electronic device to purchase additional game entries;
(7) A participant may purchase additional game entries by using points or credits won as prizes while using the electronic device;
(8) A scheme of chance operator pays out in prize money more than 20 percent of the gross revenue received at one location; or
(9) A participant makes a purchase or exchange in order to obtain any good or service that may be used to facilitate play on the electronic device.
As used in this subsection, "electronic device" means a mechanical, video, digital or electronic machine or device that is capable of displaying information on a screen or other mechanism and that is owned, leased or otherwise possessed by any person conducting a scheme of chance, or by that person's partners, affiliates, subsidiaries or contractors. <u>"Electronic device" does not include an electronic bingo system.</u>
Game of chance means poker, craps, roulette, or other game in which a player gives anything of value in the hope of gain, the outcome of which is determined largely by chance, but does not include bingo.

Game of chance conducted for profit means any game of chance designed to produce income for the person who conducts or operates the game of chance, but does not include bingo.
Gambling device means any of the following:
(1) A book, totalizer or other equipment for recording bets;
(2) A ticket, token or other device representing a chance, share or interest in a scheme of chance or evidencing a bet;
(3) A deck of cards, dice, gaming table, roulette wheel, slot machine, or other apparatus designed for use in connection with a game of chance;
(4) Any equipment, device, apparatus or paraphernalia specially designed for gambling purposes;
(5) Bingo supplies sold or otherwise provided, or used, in violation of this chapter.
Gambling offense means the following:
(1) A violation of Ohio R.C. 2915.02 to 2915.092, 2915.10 or 2915.11;
(2) A violation of an existing or former municipal ordinance or law of this or any other state or the United States substantially equivalent to any section listed in subsection (1) hereof or a violation of Ohio R.C. 2915.06 as it existed prior to July 1, 1996;
(3) An offense under an existing or former municipal ordinance or law of this or any other state or the United States, of which gambling is an element;
(4) A conspiracy or attempt to commit, or complicity in committing an offense under subsection (1), (2) or (3) hereof.
[Charitable organization.] Except as otherwise provided in this chapter, "charitable organization" means either of the following:
(1) An organization that is ~~and has received from the Internal Revenue Service a determination letter that currently is in effect stating that the organization is,~~ exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code;
(2) A volunteer rescue service organization, volunteer firefighter's organization, veteran's organization, fraternal organization, or sporting organization that is exempt from federal, income taxation under subsection 501(c)(4), (c)(7), (c)(8), (c)(10) or (c)(19) of the Internal Revenue Code.
To qualify as a charitable organization, an organization shall have been in continuous existence as such in this State for a period of two years immediately preceding either the making of an application for a bingo license under Ohio R.C. 2915.08 or the conducting of any game of chance as provided in Ohio R.C. 2915.02(D).
Religious organization means any church, body of communicants or group that is not organized or operated for profit, that gathers in common membership for regular worship and religious observances.
Veteran's organization means any individual post or state headquarters of a national veteran's association or an auxiliary unit of any individual post of a national veteran's association, which post, state headquarters, or auxiliary unit is incorporated as a nonprofit corporation and either has received a letter from the state headquarters of the national veteran's association indicating that the individual post or auxiliary unit is in good standing with the national veteran's association or has received a letter from the national veteran's association indicating that the state headquarters is in good standing with the national

veteran's association. As used in this subsection, "national veteran's association" means any veteran's association that has been in continuous existence as such for a period of at least five years and either is incorporated by an act of the United States congress or has a national dues-paying membership of at least 5,000 persons.

Volunteer firefighter's organization means any organization of volunteer firefighters, as defined in Ohio R.C. 146.01, that is organized and operated exclusively to provide financial support for a volunteer fire department or a volunteer fire company and that is recognized or ratified by a county, municipal corporation, or township.

Fraternal organization means any society, order, state headquarters, or association within this State, except a college or high school fraternity, that is not organized for profit, that is a branch, lodge or chapter of a national or state organization, that exists exclusively for the common business of sodality of its members.

Volunteer rescue service organization means any organization of volunteers organized to function as an emergency medical service organization as defined in Ohio R.C. 4765.01.

Charitable bingo game means any bingo game described in the definition of "bingo", subsections (1) or (2), of this section that is conducted by a charitable organization that has obtained a license pursuant to Ohio R.C. 2915.08 and the proceeds of which are used for a charitable purpose.

Bingo means either of the following:

(1) A game with all of the following characteristics:

A. The participants use bingo cards or sheets, including paper formats and electronic representation or image formats, that are divided into 25 spaces arranged in five horizontal and five vertical rows of spaces, with each space, except the central space, being designated by a combination of a letter and a number and with the central space being designated as a free space.

B. The participants cover the space on the bingo cards or sheets that correspond to combinations of letters and numbers that are announced by a bingo game operator.

C. A bingo game operator announces combinations of letters and numbers that appear on objects that a bingo game operator selects by chance, either manually or mechanically from a receptacle that contains 75 objects at the beginning of each game, each object marked by a different combination of a letter and a number that corresponds to one of the 75 possible combinations of a letter and a number that can appear on the bingo cards or sheets.

D. The winner of the bingo game includes any participant who properly announces during the interval between the announcements of letters and numbers as described in subsection (1)C. hereof, that a predetermined and preannounced pattern of spaces has been covered on a bingo card or sheet being used by a participant.

(2) Instant bingo, ~~punch boards~~ electronic instant bingo, and raffles.

Conduct means to back, promote, organize, manage, carry on, sponsor, or prepare for the operation of bingo or a game of chance, a scheme of chance, or a sweepstakes.

Bingo game operator means any person, except security personnel, who performs work or labor at the site of bingo, including, but not limited to, collecting money from participants, handing out bingo cards or sheets or objects to cover spaces on

bingo cards or sheets, selecting from a receptacle the objects that contain the combination of letters and numbers that appear on bingo cards or sheets, calling out the combinations of letters and numbers, distributing prizes, selling or redeeming instant bingo tickets or cards, selling or redeeming electronic instant bingo tickets, credits, or vouchers, accessing an electronic instant bingo system other than as a participant, supervising the operation of a punch board, selling raffle tickets, selecting raffle tickets from a receptacle and announcing the winning numbers in a raffle, and preparing, selling, and serving food or beverages. "Bingo game operator" does not include a person who is installing, maintaining, updating, or repairing an electronic instant bingo system.

Participant means any person who plays bingo.

Bingo session means a period that includes both of the following:

(1) Not to exceed five continuous hours for the conduct of one or more games described in the definition of "bingo", subsection (1), of this section, instant bingo, and ~~seal cards~~ electronic instant bingo;

(2) A period for the conduct of instant bingo and ~~seal cards~~ electronic instant bingo for not more than two hours before and not more than two hours after the period described in subsection (1) of this definition.

Gross receipts means all money or assets, including admission fees, that a person receives from bingo without the deduction of any amounts for prizes paid out or for the expenses of conducting bingo. "Gross receipts" does not include any money directly taken in from the sale of food or beverages by a charitable organization conducting bingo, or by a bona fide auxiliary unit or society of a charitable organization conducting bingo, provided all of the following apply:

(1) The auxiliary unit or society has been in existence as a bona fide auxiliary unit or society of the charitable organization for at least two years prior to conducting bingo.

(2) The person who purchases the food or beverage receives nothing of value except the food or beverage and items customarily received with the purchase of that food or beverage.

(3) The food and beverages are sold at customary and reasonable prices.

Security personnel includes any person who either is a sheriff, deputy sheriff, marshal, deputy marshal, township constable, or a police officer of a municipal corporation or has successfully completed a peace officer's training course pursuant to Ohio R.C. 109.71 to 109.79 and who is hired to provide security for the premises on which bingo is conducted.

Charitable purpose means that the net profit of bingo, other than instant bingo or electronic instant bingo, is used by, or is given, donated, or otherwise transferred to, any of the following:

(1) Any organization that is described in subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or an organization that is tax exempt under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code;

(2) A veteran's organization that is a post, chapter, or organization of veterans, or an auxiliary unit or society of, or a trust or foundation for, any such post, chapter, or organization organized in the United States or any of its possessions, at least 75 percent of the members of which are veterans and substantially all of the other members of which are individuals who are spouses, widows, or widowers of

veterans, or such individuals, provided that no part of the net earnings of such post, chapter, or organization inures to the benefit of any private shareholder or individual, and further provided that the net profit is used by the post, chapter, or organization for the charitable purposes set forth in Ohio R.C. 5739.02(B)(12), is used for awarding scholarships to or for attendance at an institution mentioned in Ohio R.C. 5739.02(B)(12), is donated to a governmental agency, or is used for nonprofit youth activities, the purchase of United States or Ohio flags that are donated to schools, youth groups, or other bona fide nonprofit organizations, promotion of patriotism, or disaster relief;

(3) A fraternal organization that has been in continuous existence in this State for 15 years and that uses the net profit exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals if contributions for such use would qualify as a deductible charitable contribution under subsection 170 of the Internal Revenue Code;

(4) A volunteer firefighter's organization that uses the net profit for the purposes set forth in the definition of "volunteer firefighter's organization" of this section.

Internal Revenue Code means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as now or hereafter amended.

Youth athletic organization means any organization, not organized for profit, that is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are 21 years of age or younger by means of sponsoring, organizing, operating or contributing to the support of an athletic team, club, league or association.

Youth athletic park organization means any organization, not organized for profit, that satisfies both of the following:

(1) It owns, operates and maintains playing fields that satisfy both of the following:

A. The playing fields are used ~~at least 100 days per year~~ for athletic activities by one or more organizations not organized for profit, each of which is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are 18 years of age or younger by means of sponsoring, organizing, operating or contributing to the support of an athletic team, club, league or association;

B. The playing fields are not used for any profit-making activity at any time during the year,

(2) It uses the proceeds of bingo it conducts exclusively for the operation, maintenance and improvement of its playing fields of the type described in paragraph (1) hereof.

Bingo supplies means bingo cards or sheets; instant bingo tickets or cards; electronic bingo aids; raffle tickets; punch boards; seal cards; instant bingo ticket dispensers; <u>electronic instant bingo systems;</u> and devices for selecting or displaying the combination of bingo letters and numbers or raffle tickets. Items that are "bingo supplies" are not gambling devices if sold or otherwise provided, and used, in accordance with this chapter. For purposes of this chapter, "bingo supplies" are not to be considered equipment used to conduct a bingo game.

Instant bingo means a form of bingo that shall use folded or banded tickets or paper cards with perforated break-open tabs, a face of which is covered or otherwise hidden from view to conceal a number, letter, or symbol, or set of numbers, letters, or symbols, some of which have been designated in advance as

prize winners, and may also include games in which some winners are determined by the random selection of one or more bingo numbers by the use of a seal card or bingo blower. "Instant bingo" also includes a punch board game. In all "instant bingo" the prize amount and structure shall be predetermined. "Instant bingo" does not include electronic instant bingo or any device that is activated by the insertion of a coin, currency, token, or an equivalent, and that contains as one of its components a video display monitor that is capable of displaying numbers, letters, symbols, or characters in winning or losing combinations.

Seal card means a form of instant bingo that uses instant bingo tickets in conjunction with a board or placard that contains one or more seals that, when removed or opened, reveal predesignated winning numbers, letters, or symbols.

Raffle means a form of bingo in which the one or more prizes are won by one or more persons who have purchased a raffle ticket. The one or more winners of the raffle are determined by drawing a ticket stub or other detachable section from a receptacle containing ticket stubs or detachable sections corresponding to all tickets sold for the raffle. "Raffle" does not include the drawing of a ticket stub or other detachable section of a ticket purchased to attend a professional sporting event if both of the following apply:

(1) The ticket stub or other detachable section is used to select the winner of a free prize given away at the professional sporting event; and

(2) The cost of the ticket is the same as the cost of a ticket to the professional sporting event on days when no free prize is given away.

Punch board means a form of instant bingo that uses a board containing a number of holes or receptacles of uniform size in which are placed, mechanically and randomly, serially numbered slips of paper that may be punched or drawn from the hole or receptacle ~~when used in conjunction with instant bingo~~. A player may punch or draw the numbered slips of paper from the holes or receptacles and obtain the prize established for the game if the number drawn corresponds to a winning number or, if the punch board includes the use of a seal card, a potential winning number.

Gross profit means gross receipts minus the amount actually expended for the payment of prize awards.

Net profit means gross profit minus expenses.

Expenses means the reasonable amount of gross profit actually expended for all of the following:

(1) The purchase or lease of bingo supplies;

(2) The annual license fee required under Ohio R.C. 2915.08;

(3) Bank fees and service charges for a bingo session or game account described in Ohio R.C. 2915.10;

(4) Audits and accounting services;

(5) Safes;

(6) Cash registers;

(7) Hiring security personnel;

(8) Advertising bingo;

(9) Renting premises in which to conduct a bingo session;

(10) Tables and chairs;

(11) Expenses for maintaining and operating a charitable organization's facilities, including, but not limited to, a post home, club house, lounge, tavern, or canteen

and any grounds attached to the post home, club house, lounge, tavern, or canteen;
(12) Payment of real property taxes and assessments that are levied on a premises on which bingo is conducted;
(13) Any other product or service directly related to the conduct of bingo that is authorized in rules adopted by the Attorney General under Ohio R.C. 2915.08(F)(1)~~(B)(1)~~.
Person has the same meaning as in Ohio R.C. 1.59 and includes any firm or any other legal entity, however organized.
Revoke means to void permanently all rights and privileges of the holder of a license issued under Ohio R.C. 2915.08, 2915.081, or 2915.082 or a charitable gaming license issued by another jurisdiction.
Suspend means to interrupt temporarily all rights and privileges of the holder of a license issued under Ohio R.C. 2915.08, 2915.081, or 2915.082 or a charitable gaming license issued by another jurisdiction.
Distributor means any person who purchases or obtains bingo supplies and who does either of the following:
(1) Sells, offers for sale, or otherwise provides or offers to provide the bingo supplies to another person for use in this State;
(2) Modifies, converts, adds to, or removes parts from the bingo supplies to further their promotion or sale for use in this State.
Manufacturer means any person who assembles completed bingo supplies from raw materials, other items, or subparts or who modifies, converts, adds to, or removes parts from bingo supplies to further their promotion or sale.
Gross annual revenues means the annual gross receipts derived from the conduct of bingo described in the definition of "bingo", subsection (1), of this section plus the annual net profit derived from the conduct of bingo described in the definition of "bingo", subsection (2) of this section.
Instant bingo ticket dispenser means a mechanical device that dispenses an instant bingo ticket or card as the sole item of value dispensed and that has the following characteristics:
(1) It is activated upon the insertion of United States currency.
(2) It performs no gaming functions.
(3) It does not contain a video display monitor or generate noise.
(4) It is not capable of displaying any numbers, letters, symbols, or characters in winning or losing combinations.
(5) It does not simulate or display rolling or spinning reels.
(6) It is incapable of determining whether a dispensed bingo ticket or card is a winning or nonwinning ticket or card and requires a winning ticket or card to be paid by a bingo game operator.
(7) It may provide accounting and security features to aid in accounting for the instant bingo tickets or cards it dispenses.
(8) It is not part of an electronic network and is not interactive.
[Electronic bingo aid.]
(1) "Electronic bingo aid" means an electronic device used by a participant to monitor bingo cards or sheets purchased at the time and place of a bingo session and that does all of the following:
A. It provides a means for a participant to input numbers and letters announced by

a bingo caller.
B. It compares the numbers and letters entered by the participant to the bingo faces previously stored in the memory of the device.
C. It identifies a winning bingo pattern.
(2) "Electronic bingo aid" does not include any device into which a coin, currency, token, or an equivalent is inserted to activate play.
Deal ~~of instant bingo tickets~~ means a single game of instant bingo tickets, or a single game of electronic instant bingo tickets, all with the same serial number.
[Slot machine.]
(1) "Slot machine" means either of the following:
A. Any mechanical, electronic, video, or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a player who gives the thing of value in the hope of gain;
B. Any mechanical, electronic, video, or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a player to conduct bingo or a scheme or game of chance.
(2) "Slot machine" does not include a skill-based amusement machine ~~or~~ , an instant bingo ticket dispenser, or an electronic instant bingo system.
Net profit from the proceeds of the sale of instant bingo or electronic instant bingo" means gross profit minus the ordinary, necessary, and reasonable expense expended for the purchase of ~~instant~~ bingo supplies for the purpose of conducting instant bingo or electronic instant bingo, and, in the case of instant bingo or electronic instant bingo conducted by a veteran's, fraternal or sporting organization, minus the payment by that organization of real property taxes, and assessments levied on a premises on which instant bingo or electronic instant bingo is conducted.
Charitable instant bingo organization means an organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code and is a charitable organization as defined in this section. A "charitable instant bingo organization" does not include a charitable organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code and that is created by a veteran's organization, a fraternal organization, or a sporting organization in regards to bingo conducted or assisted by a veteran's organization, a fraternal organization, or a sporting organization pursuant to Ohio R.C. 2915.13.
Game flare means the board or placard, or electronic representation of a board or placard, that accompanies each deal of instant bingo or electronic instant bingo tickets and that ~~has printed on or affixed to it~~ includes the following information for the game:
(1) The name of the game;
(2) The manufacturer's name or distinctive logo;
(3) The form number;
(4) The ticket count;
(5) The prize structure, including the number of winning ~~instant bingo~~ tickets by denomination and the respective winning symbol or number combinations for the winning ~~instant bingo~~ tickets;
(6) The cost per play;

(7) The serial number of the game.
[Skill-based amusement machine.]
(1) "Skill-based amusement machine" means mechanical, video, digital, or electronic device that rewards the player or players, if at all, only with merchandise prizes or with redeemable vouchers redeemable only for merchandise prizes, provided that with respect to rewards for playing the game all of the following apply:
A. The wholesale value of a merchandise prize awarded as a result of the single play of a machine does not exceed $10.00;
B. Redeemable vouchers awarded for any single play of a machine are not redeemable for a merchandise prize with a wholesale value of more than $10.00;
C. Redeemable vouchers are not redeemable for a merchandise prize that has a wholesale value of more than $10.00 times the fewest number of single plays necessary to accrue the redeemable vouchers required to obtain that prize; and
D. Any redeemable vouchers or merchandise prizes are distributed at the site of the skill-based amusement machine at the time of play.
A card for the purchase of gasoline is a redeemable voucher for purposes of subsection (1) of this definition even if the skill-based amusement machine for the play of which the card is awarded is located at a place where gasoline may not be legally distributed to the public or the card is not redeemable at the location of, or at the time of playing, the skill-based amusement machine.
(2) A device shall not be considered a skill-based amusement machine and shall be considered a slot machine if it pays cash or one or more of the following apply:
A. The ability of a player to succeed at the game is impacted by the number or ratio of prior wins to prior losses of players playing the game.
B. Any reward of redeemable vouchers is not based solely on the player achieving the object of the game or the player's score;
C. The outcome of the game, or the value of the redeemable voucher or merchandise prize awarded for winning the game, can be controlled by a source other than any player playing the game.
D. The success of any player is or may be determined by a chance event that cannot be altered by player actions.
E. The ability of any player to succeed at the game is determined by game features not visible or known to the player.
F. The ability of the player to succeed at the game is impacted by the exercise of a skill that no reasonable player could exercise.
(3) All of the following apply to any machine that is operated as described in subsection (1) of this definition:
A. As used in this definition, "game" and "play" mean one event from the initial activation of the machine until the results of play are determined without payment of additional consideration. An individual utilizing a machine that involves a single game, play, contest, competition or tournament may be awarded redeemable vouchers or merchandise prizes based on the results of play.
B. Advance play for a single game, play, contest, competition or tournament participation may be purchased. The cost of the contest, competition, or tournament participation may be greater than a single noncontest, competition or tournament play.
C. To the extent that the machine is used in a contest, competition or tournament,

that contest, competition, or tournament has a defined starting and ending date and is open to participants in competition for scoring and ranking results toward the awarding of redeemable vouchers or merchandise prizes that are stated prior to the start of the contest, competition or tournament.
(4) For purposes of subsection (1) of this definition, the mere presence of a device, such as a pin-setting, ball-releasing, or scoring mechanism, that does not contribute to or affect the outcome of the play of the game does not make the device a skill-based amusement machine.
Merchandise prize means any item of value, but shall not include any of the following:
(1) Cash, gift cards, or any equivalent thereof;
(2) Plays on games of chance, state lottery tickets, or bingo~~, or instant bingo~~;
(3) Firearms, tobacco, or alcoholic beverages; or
(4) A redeemable voucher that is redeemable for any of the items listed in subsection (1), (2) or (3) of this definition.
Redeemable voucher means any ticket, token, coupon, receipt, or other noncash representation of value.
Pool not conducted for profit means a scheme in which a participant gives a valuable consideration for a chance to win a prize and the total amount of consideration wagered is distributed to a participant or participants.
Sporting organization means a hunting, fishing or trapping organization, other than a college or high school fraternity or sorority, that is not organized for profit, that is affiliated with a state or national sporting organization, including but not limited to, the league of Ohio sportsmen, and that has been in continuous existence in this State for a period of three years.
Community action agency has the same meaning as in Ohio R.C. 122.66.
[Sweepstakes terminal device.]
(1) "Sweepstakes terminal device" means a mechanical, video, digital or electronic machine or device that is owned, leased or otherwise possessed by any person conducting a sweepstakes, or by that person's partners, affiliates, subsidiaries, or contractors, that is intended to be used by a sweepstakes participant, and that is capable of displaying information on a screen or other mechanism. A device is a sweepstakes terminal device if any of the following apply:
A. The device uses a simulated game terminal as a representation of the prizes associated with the results of the sweepstakes entries.
B. The device utilizes software such that the simulated game influences or determines the winning of or value of the prize.
C. The device selects prizes from a predetermined finite pool of entries.
D. The device utilizes a mechanism that reveals the content of a predetermined sweepstakes entry.
E. The device predetermines the prize results and stores those results for delivery at the time the sweepstakes entry results are revealed.
F. The device utilizes software to create a game result.
G. The device reveals the prize incrementally, even though the device does not influence the awarding of the prize or the value of any prize awarded.
H. The device determines and associates the prize with an entry or entries at the time the sweepstakes is entered.
(2) As used in this subsection and in Section 517.02:

A. "Enter" means the act by which a person becomes eligible to receive any prize offered in a sweepstakes.
B. "Entry" means one event from the initial activation of the sweepstakes terminal device until all of the sweepstakes prize results from that activation are revealed.
C. "Prize" means any gift, award, gratuity, good, service, credit, reward or any other thing of value that may be transferred to a person, whether possession of the prize is actually transferred, or placed on an account or other record as evidence of the intent to transfer the prize.
D. "Sweepstakes terminal device facility" means any location in this Municipality where a sweepstakes terminal device is provided to a sweepstakes participant, except as provided in Ohio R.C. 2915.02(G).
Sweepstakes means any game, contest, advertising scheme or plan, or other promotion where consideration is not required for a person to enter to win or become eligible to receive any prize, the determination of which is based upon chance. "Sweepstakes" does not include bingo as authorized under this chapter, pari-mutuel wagering as authorized by Ohio R.C. Chapter 3769, lotteries conducted by the State Lottery Commission as authorized by Ohio R.C. Chapter 3770, and casino gaming as authorized by Ohio R.C. Chapter 3772.
"Electronic instant bingo" means a form of bingo that consists of an electronic or digital representation of instant bingo in which a participant wins a prize if the participant's electronic instant bingo ticket contains a combination of numbers or symbols that was designated in advance as a winning combination, and to which all of the following apply:
(a) Each deal has a predetermined, finite number of winning and losing tickets and a predetermined prize amount and deal structure, provided that there may be multiple winning combinations in each deal and multiple winning tickets.
(b) Each electronic instant bingo ticket within a deal has a unique serial number that is not regenerated.
(c) Each electronic instant bingo ticket within a deal is sold for the same price.
(d) After a participant purchases an electronic instant bingo ticket, the combination of numbers or symbols on the ticket is revealed to the participant.
(e) The reveal of numbers or symbols on the ticket may incorporate an entertainment or bonus theme, provided that the reveal does not include spinning reels that resemble a slot machine.
(f) The reveal theme, if any, does not require additional consideration or award any prize other than any predetermined prize associated with the electronic instant bingo ticket.
(2) "Electronic instant bingo" shall not include any of the following:
(a) Any game, entertainment, or bonus theme that replicates or simulates any of the following:
(i) The gambling games of keno, blackjack, roulette, poker, craps, other casino-style table games;
(ii) Horse racing;
(iii) Gambling games offered in this state on slot machines or video lottery terminals. As used in this division, "video lottery terminal" has the same meaning as in section 3770.21 of the Revised Code.
(b) Any device operated by dropping one or more coins or tokens into a slot and pulling a handle or pushing a button or touchpoint on a touchscreen to activate one

to three or more rotating reels marked into horizontal segments by varying symbols, where the predetermined prize amount depends on how and how many of the symbols line up when the rotating reels come to a rest;
(c) Any device that includes a coin or token slot, tray, or hopper and the ability to dispense coins, cash, tokens, or anything of value other than a credit ticket voucher.
"Electronic instant bingo system" means both of the following:
(1) A mechanical, electronic, digital, or video device and associated software to which all of the following apply:
(a) It is used by not more than one player at a time to play electronic instant bingo on a single screen that is physically connected to the device;
(b) It is located on the premises of the principal place of business of a veteran's or fraternal organization that holds a type II or type III bingo license to conduct electronic instant bingo at that location issued under section 2915.08 of the Revised Code.
(2) Any associated equipment or software used to manage, monitor, or document any aspect of electronic instant bingo. (ORC 2915.01)

517.06 Methods of conducting a bingo game; prohibitions.
(a) No charitable organization that conducts bingo shall fail to do any of the following:
(1) Own all of the equipment used to conduct bingo or lease that equipment from a charitable organization that is licensed to conduct bingo, or from the landlord of a premises where bingo is conducted, for a rental rate that is not more than is customary and reasonable for that equipment;
(2) Use, or give, donate, or otherwise transfer, all of the net profit derived from bingo, ~~other than instant bingo~~, described in ORC 2915.01(O)(1) for a charitable purpose listed in its license application and described in Section 517.01, definition of "charitable purpose", or distribute all of the net profit from the proceeds of the sale of instant bingo or electronic instant bingo as stated in its license application and in accordance with Ohio R.C. 2915.101, as applicable.
(b) No charitable organization that conducts a bingo game described in Section 517.01, definition of "bingo, subsection (1), shall fail to do any of the following:
(1) Conduct the bingo game on premises that are owned by the charitable organization, on premises that are owned by another charitable organization and leased from that charitable organization for a rental rate not in excess of the lesser of $600.00 per bingo session or 45 percent of the gross receipts of the bingo session, on premises that are leased from a person other than a charitable organization for a rental rate that is not more than is customary and reasonable for premises that are similar in location, size, and quality but not in excess of $450.00 per bingo session, or on premises that are owned by a person other than a charitable organization, that are leased from that person by another charitable organization, and that are subleased from that other charitable organization by the charitable organization for a rental rate not in excess of $450.00 per bingo session. No charitable organization is required to pay property taxes or assessments on premises that the charitable organization leases from another person to conduct bingo sessions. If the charitable organization leases from a person other than a charitable organization the premises on which it conducts bingo sessions, the lessor

of the premises shall provide the premises to the organization and shall not provide the organization with bingo game operators, security personnel, concessions or concession operators, bingo supplies, or any other type of service. A charitable organization shall not lease or sublease premises that it owns or leases to more than three other charitable organizations per calendar week for conducting bingo sessions on the premises. A person that is not a charitable organization shall not lease premises that it owns, leases, or otherwise is empowered to lease to more than three charitable organizations per calendar week for conducting bingo sessions on the premises. In no case shall more than nine bingo sessions be conducted on any premises in any calendar week.
(2) Display its license conspicuously at the premises where the bingo session is conducted;
(3) Conduct the bingo session in accordance with the definition of bingo set forth in Section 517.01, definition of "bingo", subsection (1).
(c) No charitable organization that conducts a bingo game described in Section 517.01, definition of "bingo", subsection (1), shall do any of the following:
(1) Pay any compensation to a bingo game operator for operating a bingo session that is conducted by the charitable organization or for preparing, selling, or serving food or beverages at the site of the bingo session, permit any auxiliary unit or society of the charitable organization to pay compensation to any bingo game operator who prepares, sells, or serves food or beverages at a bingo session conducted by the charitable organization, or permit any auxiliary unit or society of the charitable organization to prepare, sell, or serve food or beverages at a bingo session conducted by the charitable organization, if the auxiliary unit or society pays any compensation to the bingo game operators who prepare, sell, or serve the food or beverages;
(2) Pay consulting fees to any person for any services performed in relation to the bingo session;
(3) Pay concession fees to any person who provides refreshments to the participants in the bingo session;
(4) Except as otherwise provided in subsection (c)(4) of this section, conduct more than three bingo sessions in any seven-day period. A volunteer firefighter's organization or a volunteer rescue service organization that conducts not more than five bingo sessions in a calendar year may conduct more than three bingo sessions in a seven-day period after notifying the Attorney General when it will conduct the sessions;
(5) Pay out more than $6,000.00 in prizes for bingo games described in Section 517.01, definition of "bingo", subsection (1), during any bingo session that is conducted by the charitable organization. "Prizes" does not include awards from the conduct of instant bingo;
(6) Conduct a bingo session at any time during the eight-hour period between two a.m. and ten a.m., at any time during, or within ten hours of, a bingo game conducted for amusement only pursuant to Ohio R.C. 2915.12, at any premises not specified on its license, or on any day of the week or during any time period not specified on its license. Subsection (c)(6) of this section does not prohibit the sale of instant bingo tickets beginning at nine a.m. for a bingo session that begins at ten a.m. If circumstances make it impractical for the charitable organization to conduct a bingo session at the premises, or on the day of the week or at the time, specified

on its license or if a charitable organization wants to conduct bingo sessions on a day of the week or at a time other than the day or time specified on its license, the charitable organization may apply in writing to the Attorney General for an amended license, pursuant to Ohio R.C. 2915.08(F). A charitable organization may apply twice in each calendar year for an amended license to conduct bingo sessions on a day of the week or at a time other than the day or time specified on its license. If the amended license is granted, the organization may conduct bingo sessions at the premises, on the day of the week, and at the time specified on its amended license;
(7) Permit any person whom the charitable organization knows, or should have known, is under the age of 18 to work as a bingo game operator;
(8) Permit any person whom the charitable organization knows, or should have known, has been convicted of a felony or gambling offense in any jurisdiction to be a bingo game operator;
(9) Permit the lessor of the premises on which the bingo session is conducted, if the lessor is not a charitable organization, to provide the charitable organization with bingo game operators, security personnel, concessions, bingo supplies, or any other type of service;
(10) Purchase or lease bingo supplies from any person except a distributor issued a license under Ohio R.C. 2915.081;
(11) A. Use or permit the use of electronic bingo aids except under the following circumstances:
1. For any single participant, not more than 90 bingo faces can be played using an electronic bingo aid or aids.
2. The charitable organization shall provide a participant using an electronic bingo aid with corresponding paper bingo cards or sheets.
3. The total price of bingo faces played with an electronic bingo aid shall be equal to the total price of the same number of bingo faces played with a paper bingo card or sheet sold at the same bingo session but without an electronic bingo aid.
4. An electronic bingo aid cannot be part of an electronic network other than a network that includes only bingo aids and devices that are located on the premises at which the bingo is being conducted or be interactive with any device not located on the premises at which the bingo is being conducted.
5. An electronic bingo aid cannot be used to participate in bingo that is conducted at a location other than the location at which the bingo session is conducted and at which the electronic bingo aid is used.
6. An electronic bingo aid cannot be used to provide for the input of numbers and letters announced by a bingo caller other than the bingo caller who physically calls the numbers and letters at the location at which the bingo session is conducted and at which the electronic bingo aid is used.
B. The Attorney General may adopt rules in accordance with Ohio R.C. Chapter 119 that govern the use of electronic bingo aids. The rules may include a requirement that an electronic bingo aid be capable of being audited by the Attorney General to verify the number of bingo cards or sheets played during each bingo session.
(12) Permit any person the charitable organization knows, or should have known, to be under 18 years of age to play bingo described in Section 517.01, definition of "bingo", subsection (1).
(d) (1) Except as otherwise provided in subsection (d)(3) hereof, no charitable

organization shall provide to a bingo game operator, and no bingo game operator shall receive or accept, any commission, wage, salary, reward, tip, donation, gratuity, or other form of compensation, directly or indirectly, regardless of the source, for conducting bingo or providing other work or labor at the site of bingo during a bingo session.

(2) Except as otherwise provided in subsection (d)(3) hereof, no charitable organization shall provide to a bingo game operator any commission, wage, salary, reward, tip, donation, gratuity, or other form of compensation, directly or indirectly, regardless of the source, for conducting instant bingo, electronic instant bingo, or both other than at a bingo session at the site of instant bingo, electronic instant bingo, or both other than at a bingo session.

(3) Nothing in subsection (d) hereof prohibits an employee of a fraternal organization, veteran's organization, or sporting organization from selling instant bingo tickets or cards to the organization's members or invited guests, as long as no portion of the employee's compensation is paid from any receipts of bingo.

(e) Notwithstanding subsection (b)(1) of this section, a charitable organization that, prior to December 6, 1977, has entered into written agreements for the lease of premises it owns to another charitable organization or other charitable organizations for the conducting of bingo sessions so that more than two bingo sessions are conducted per calendar week on the premises, and a person that is not a charitable organization and that, prior to December 6, 1977, has entered into written agreements for the lease of premises it owns to charitable organizations for the conducting of more than two bingo sessions per calendar week on the premises, may continue to lease the premises to those charitable organizations, provided that no more than four sessions are conducted per calendar week, that the lessor organization or person has notified the Attorney General in writing of the organizations that will conduct the sessions and the days of the week and the times of the day on which the sessions will be conducted, that the initial lease entered into with each organization that will conduct the sessions was filed with the Attorney General prior to December 6, 1977, and that each organization that will conduct the sessions was issued a license to conduct bingo games by the Attorney General prior to December 6, 1977.

(f) This section does not prohibit a bingo licensed charitable organization or a game operator from giving any person an instant bingo ticket as a prize.

(g) Except as otherwise provided in this subsection, whoever violates subsection (a)(1) or (2), (b)(1), (2), or (3), (c)(1) to (11) or (d) of this section is guilty of a minor misdemeanor. If the offender previously has been convicted of a violation of subsection (a)(1) or (2), (b)(1), (2) or (3), (c)(1) to (11), or (d) of this section, a violation of subsection (a)(1) or (2), (b)(1), (2) or (3) or (c)(1) to (11) or (d) of this section is a misdemeanor of the first degree. Whoever violates subsection (c)(12) of this section is guilty of a misdemeanor of the first degree. If the offender previously has been convicted of a violation of subsection (c)(12) of this section, a violation of subsection (c)(12) is a felony and shall be prosecuted under appropriate State law. (ORC 2915.09)

AI-8632 **Topics of Discussion** J.

Council Work Session

Meeting Date: 09/06/2022

Board of Zoning Appeals Appointment - P. Schaeffer

Submitted By: Anthony Rodgers

Department: City Council

Council Committee Review?: Council Work Session

Date(s) of Committee Review: 09/06/2022

Audio-Visual Needs: None **Emergency Legislation?:** No

Motion/Ordinance/ Resolution No.:

Agenda Item Description or Legislation Title

Board And Commission Appointments

* Board of Zoning Appeals - Appointment

Purpose and Background

The City's interview panel recommends the appointment of Paul Schaeffer to the Board of Zoning Appeals for a term ending January 31, 2024. A background check on Mr. Schaeffer is in process with Human Resources.

Fiscal Impact

Source of Funds: N/A

Cost: N/A

Recurring Cost? (Yes/No): N/A

Funds Available in Current Budget? (Yes/No): N/A

Financial Implications:

Attachments

Application - P. Schaeffer

RECEIVED ON:
AUG 24 2022
CLERK OF COUNCIL

HUBER HEIGHTS
Come Grow With Us!

Application For City Boards and Commissions

6131 Taylorsville Road
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Fax: (937) 233-1272
www.hhoh.org
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Qualified applicants are considered for all positions without regard to race, color, religion, sex, national origin, marital or veteran status, or disability.

PLEASE COMPLETE ALL SECTIONS AND EACH QUESTION COMPLETELY AND ACCURATELY

Board or Commission Applied For:	Date Applied:
BZA	8/24/2022

Last Name	First Name	Middle Name
Schaeffer	Paul	Joseph

Address	City	State	Zip Code
5932 Oak Creek Trl	Huber Heights	OH	45424

Home Phone Number	Daytime Phone Number	E-mail Address
(937) 266-3984	same	pschaeffer7518@outlook.com

EDUCATION

	SCHOOL	COURSE OF STUDY OR DEGREE EARNED
HIGH SCHOOL	Chaparral H.S. Las Vegas, NV	
COLLEGE	Wright State University	Engineering B.S.
GRADUATE SCHOOL	University of Colorado Denver	Public Administration MPA
OTHER (Specify)	Defense Systems Mgmt College	Program Management

COMMUNITY INVOLVEMENT

Please list all civic, community, or non-profit organizations to which you have belonged or currently do belong, and your dates of service.

Organization	Dates of Service
Boy Scouts of America	1973 - 2005
Radio Technical Commission for Aeronautics	2011 - 2015

EMPLOYMENT HISTORY

Name of Employer	Position(s) Held	Dates of Employment
WBB	Program Manager	AUG 2018 - MAR 2020
USAF	Program Manager	FEB 1989 - MAY 2018

REFERENCES

Roy Anderson	3915 Germany Ln, Dayton	937 241-9035
Name	Address	Telephone Number
Paul Loughnane	WPAFB, OH	937-212-1435
Name	Address	Telephone Number
John Mueller	Dayton, OH	937-469-0339
Name	Address	Telephone Number

STATEMENT OF INTEREST

Please tell us why you are interested in serving on this board or commission

Interest in serving the community and engaged with my local government.

REQUIREMENTS AND APPLICANT STATEMENT

Are you at least 18 years of age? ☒ Yes ☐ No

Do you currently reside in the City of Huber Heights? ☒ Yes ☐ No

Have you resided in the City of Huber Heights for at least one year prior to making this application? ☒ Yes ☐ No

Are you a registered voter? ☒ Yes ☐ No

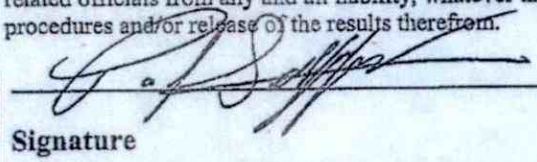
Are you willing to sign a release to allow the City of Huber Heights to perform a background screening and criminal records check? ☒ Yes ☐ No

I certify that all of the information furnished in this application and its addenda are true and complete to the best of my knowledge. I understand that the City of Huber Heights may investigate the information I have furnished and I realize that any omissions, misrepresentation or false information in this application and/or its addenda may lead to revocation of any volunteer appointment.

I hereby acknowledge that I, voluntarily and of my own free will, have applied for a volunteer position with the City of Huber Heights with the understanding that the City may use a variety of screening procedures to evaluate my qualifications and suitability for appointment. I have been advised that these screening procedures might include, but are not limited to, interviews, criminal record checks, driving records checks and reference checks. I also acknowledge that any such screening procedures, as reasonably required by the City of Huber Heights, are prerequisites to my appointment to a volunteer position with the City of Huber Heights.

In addition, I also hereby understand that the City of Huber Heights cannot guarantee the confidentiality of the results of, or information obtained through the aforementioned screening procedures. Decisions of the Ohio Supreme Court regarding the Ohio Public Records Act indicate that, with certain enumerated exceptions, records maintained by a governmental entity are a matter of public record and, should a proper request be made by a member of the public for such records, the governmental entity would be required to make such records available to that member of the public within a reasonable time. Additionally, all information furnished in this application is subject to disclosure under the Ohio Public Records Act.

Therefore, in consideration of my application being reviewed by the City of Huber Heights, under no legal disability, and on behalf of my heirs and assigns, hereby release and agree to hold harmless the City of Huber Heights and any of its agents, employees, or related officials from any and all liability, whatever the type and nature resulting from the administration of any such screening procedures and/or release of the results therefrom.



Signature

8/24/22

Date