

CITY COUNCIL  
Regular Meeting - May 08, 2023 6:00 p.m.  
Council Chambers

- ◆ PROCLAMATION - Junior ROTC
- ◆ PROCLAMATION - National Peace Officers Week
  
- I. CALL TO ORDER
- II. ROLL CALL
- III. PLEDGE AND PRAYER/MOMENT OF SILENCE - Council Member Schwartz
- IV. APPROVAL OF AGENDA
- V. APPROVAL OF MINUTES
  - A. April 24, 2023 Regular Session Minutes
  
- VI. PRESCHEDULED - Mark Wiley Beavercreek Historical Society
  
- VII. PUBLIC HEARINGS - Zoning Code Changes
  - A. Staff Presentation
  - B. Public Input
  - C. Council Input
  - D. Ordinance 23-10 Zoning Code Changes
  
- VIII. ORDINANCES, RESOLUTIONS AND PUDS
  - A. Ordinance 23-11 Additional Appropriations (Single Reading)
  - B. Resolution 23-28 Trex for Twin Peaks
  
- IX. DECISION ITEM
  - A. 1<sup>st</sup> Quarter Financial
  
- X. COUNCIL TIME
- XI. MAYOR'S REPORT
- XII. CITY MANAGER'S REPORT
- XIII. CITIZEN COMMENTS
- XIV. ADJOURNMENT

BEAVERCREEK CITY COUNCIL  
REGULAR MEETING April 24, 2023 6:00 p.m.

CALL TO ORDER

Mayor Stone called the meeting to order followed by roll call

PRESENT: Council Member Adams, Council Member Bales, Council Member Curran, Council Member Duerr, Council Member Schwartz; Vice Mayor Garcia, Mayor Stone

ALSO IN ATTENDANCE: Randy Burkett, City Planner, Katy Carrico, Communications Manager; Debbie Haines, Clerk of Council; Pete Landrum, City Manager; Scott Molnar, Police Captain; Steve McHugh, Legal Counsel; Jeff Moorman, Public Works Director/City Engineer; Zach Wike, Asst. Superintendent Parks

PLEDGE

Council Member Curran led the pledge and a moment of silence to give thanks for those that have been persecuted in the Ukraine war.

APPROVAL OF AGENDA

Council Member Curran MOVED to approve the agenda, seconded by Vice Mayor Garcia. Motion PASSED by majority voice vote.

APPROVAL OF MINUTES

Council Member Bales MOVED to approve the April 10, 2023 Regular Session Minutes, seconded by Council Member Schwartz. Motion PASSED by majority voice vote.

ORDINANCES, RESOLUTIONS AND PUDS

Ordinance 23-8 Impact Fee

Clerk Haines read an Ordinance amending Ordinance No. 93-62, No. 95-66, No. 96-16, No. 97-72 and No. 18-17 the Beaver Creek Traffic Improvement District Ordinance by updating and amending the Improvement Fee, Amending the Transportation System Improvement Fee Schedule for District No. 1, amending the fee per trip schedule for District No. 1, amending certain other provisions of same ordinances.

There was no further staff report as this was the second reading.

Clerk Haines indicated she had received an email in favor of the increase.

COUNCIL INPUT

There was no Council input.

Council Member Duerr MOVED to approve Ordinance 23-8, seconded by Vice Mayor Garcia. Motion PASSED by majority voice vote.

Resolution 23-20 D.A.R.E. Grant

Clerk Haines read a resolution authorizing the Police Department to accept the Ohio Attorney General's Drug Use Prevention (D.A.R.E.) Grants Program Funding.

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Captain Molnar stated that this resolution will allow the Police Chief to accept state grant monies to be applied to the D.A.R.E. Officer's salary during the school period. This grant is through the Ohio Attorney General's Office and the police department would receive \$30,649.18 for the 2023-2024 school year He stated that the D.A.R.E. Officer teaches approximately 600 students per year.

Staff recommends approval of Resolution 23-20.

COUNCIL INPUT

There was no Council input.

Council Member Curran MOVED to approve Resolution 23-20, seconded by Council Member Bales. Motion PASSED by majority voice vote.

Resolution 23-23 CDBG Grant

Clerk Haines read a resolution to authorize the submittal of funding application for Community Development Block Grant (CDBG) Funding through the Greene County Department of Development.

Mr. Moorman stated that every other year the Greene County Commissioners distribute application packets for the current fiscal year's Community Development Block Grant program for local jurisdictions within Greene County. He said that these applications are awarded on a competitive basis. Staff is recommending submittal of a project to spot pavement repairs, sealing and restriping the existing Senior Center parking lot. The cost of these improvements would be \$40,000 with an 80/20 split the City's share would be \$8,000.

He stated that staff recommended approval.

COUNCIL INPUT

Council Member Duerr asked about the timeline for the project. Mr. Moorman said hopefully mid-summer of 2024.

Mayor Stone said that the parking lot could use some repairs and improvements.

There was no further Council input.

Council Member Bales MOVED to approve Resolution 23-23, seconded by Council Member Adams. Motion PASSED by majority voice vote.

Resolution 23-24 Department of Energy Grant

Clerk Haines read a resolution to authorize the submittal of funding application for Energy Efficiency and Conservation Block Grant (EECBG) Funding through the U.S. Department of Energy.

Mr. Moorman stated the Energy Efficiency and Conservation Block Grant (EECBG) is administered by the U.S. Department of Energy and offers grant opportunities for local jurisdictions for improvements to energy consumption.

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The City is eligible for \$76,640 with this program and staff recommends utilizing this funding to replace high pressure sodium light fixtures with more efficient LED lights along N. Fairfield Road, Commons Blvd and Pentagon in the Fairfield Commons area. He added that this grant would cover the entire cost of the work.

He stated that staff recommended approval.

#### COUNCIL INPUT

Council Member Duerr asked if the replacement lights would go down as far as Soin. Mr. Moorman replied that the plan was to do the entire Pentagon Boulevard and Fairfield from Kemp to Pentagon.

There was no further Council input.

Council Member Duerr MOVED to approve Resolution 23-24, seconded by Council Member Adams. Motion PASSED by majority voice vote.

#### LIQUOR LICENSE

Mahaganapati LLC dba Beverage Express from Dodsman LLC dba Beverage Express

Captain Molnar stated that the Ohio Department of Commerce Division of Liquor Control sent notification of a transfer of a C1 and C2 liquor permit from Dodsman LLC, dba Beverage Express 3850 Kemp Road to Mahaganapati LLC dba Beverage Express at the same location. The required record checks have been performed and staff is recommending the request move forward without comment.

Council Member Adams MOVED to approve without comment, seconded by Council Member Schwartz. Motion PASSED by majority voice vote.

#### DECISION ITEM

United States Conference of Mayors

Mayor Stone stated that the United States Conference of Mayors meet all around the Country and this year the meeting is in Columbus with mayors from all over the country attending. He said that this year is it sponsored by the OMA, and he sits on the board. The entire cost is not known as of yet, and the question was if Council agreed that the mayor on the sponsoring board of the organization should attend.

Council Member Duerr asked if he was one of 3 mayors in the State on the board. Mayor Stone said that there were 8 mayors on the board and he pointed out the OMA was strictly Ohio mayors.

Council Member Curran MOVED to approve the Mayor's attendance at the U.S. Conference of Mayors, seconded by Council Member Duerr. Motion PASSED by majority voice vote.

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OneOhio Region 14 Representative

Mr. Landrum said that this is part of the Opioid Settlement with Region 14 encompassing Greene County among others and each county will have a representative and the largest city in each county would also have a representative. In the case of Greene County Beavercreek is the largest city. A meeting is scheduled for the next day and they were asking Beavercreek to assign a representative. He pointed out that it could be a Council Member, member of staff, or citizen appointed by Council.

Mayor Stone stated that Council Member Schwartz indicated she would like to serve on this board.

Council Member Curran asked what the money had to be used for. Mr. Landrum stated it had to be used for opioid abuse. Council Member Curran asked how much money they were talking about. Mr. Landrum said that they didn't know how much yet, but it was a very large settlement.

Council Member Bales MOVED to appoint Council Member Schwartz as the OneOhio Region 14 Beavercreek Representative, seconded by Council Member Curran. Motion passed by majority voice vote.

#### COUNCIL TIME

Council Member Bales congratulated the graduating seniors on the Youth Council, with a special shoutout to Cloe Gallup, a neighbor, who was a real go getter. He attended the Volunteer Recognition Dinner with easily 100 people being recognized, and said it was their efforts that kept the city running and he appreciated their work. He would be busy in the upcoming week attending the Wastewater and Water Advisory meeting on Wednesday, the MVRPC on Thursday night and the Spring Fling Friday night as well as the Arbor Day event. He said May 2<sup>nd</sup> was voting day and he encouraged citizens to educate themselves on the ballot issues. He went over police incidents that were up compared to the first quarter of last year and felt those statistics were important.

Council Member Duerr said that he had the opportunity to preach at the University Baptist Church and he thanked them for the opportunity. He congratulated the Youth Council for all they do for the community and help it gives to the students. He said May 2 would be an opportunity to have their voices heard.

Council Member Adams congratulated the youth that attended the meeting and thanked all the youth participating in the committee. He stated that Chloe Gallup had also received the Girl Scout Gold Award and Colter Hess was joining the National Guard. He attended the Beavercreek Rotary pancake breakfast which had a record day with a portion of the proceeds going back to the band and color guard. He attended the Girl Scouts North Beavercreek Bronze, Silver and Gold Banquet and it was amazing what these young girls accomplished. He

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attended the Volunteer Recognition Dinner and there were 31,000 volunteer hours' worth almost a million dollars if they were paid a salary and that was for parks only and didn't include the Senior Center or golf course volunteers. He thanked each and every one for their time and effort. He said next Tuesday was an important day for the city and they should educate themselves on the ballot issue and vote accordingly.

Council Member Schwartz said she also attended the Volunteer Recognition Dinner and it was a wonderful event and as previously said the city couldn't function without them. She said this is Child Abuse Awareness Month which accounted for the blue pinwheels throughout the city. She said that unfortunately no city or community is immune to this issue and please report an issue if you witness one. She congratulated the Mayor for his induction in the Greene County Veterans Hall of Fame and said it was an honor to serve with him and she thanked him for his military service. She echoed election day information and to make sure you're informed. She thanked her fellow council members for appointing her to the Region 14 board as it was near and dear to her heart and she felt it was important to be getting resources to combat this problem.

Council Member Curran thanked the seniors on the Youth Council Committee. He said that the Rotary Pancake Breakfast was a great success and stated that the next President of Rotary would be Council Member Adams. He took a fantastic tour of PAWS for ability and received information on the training of these service dogs. He encouraged learning about this fantastic organization. He too attended the Volunteer Recognition Dinner and acknowledged the work they do as very important to the city.

Vice Mayor Garcia thanked Council for the opportunity to go to the Fly- In which was very productive. They made contacts with military members and their families and learned about the roles and responsibilities of defense to the community. She said that another area touched on was CFIUS what happens and what you need to know and what questions you need to ask. Another good discussion was on foreign investment event and what questions they should be asking. She said that the Fly-In was a good way to hear from our state representatives. She said that the rail system that had been discussed for years was discussed with the issues the rail system had been having of late, however, that was said not to be having an effect on the passenger system.

#### MAYOR'S REPORT

Mayor Stone stated that in addition to the highlights mentioned from the Fly-In and events going on in the city. There was also the Greater Dayton Mayors and Managers Association meeting that he and the City Manager attended. He said that the Springfield Air National Guard Base had a Community Day and they are still going strong. He also attended the Holly Holiday Celebration which was always a happy celebration. He said Governor DeWine came to the Greene County Commissioners office, Friday and presented the jail with a \$15 million grant check for the new jail construction that will help drastically. He thanked

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all those involved with his induction in the Greene County Veterans Hall of Fame, as it was an honor.

#### CITY MANAGER REPORT

Mr. Landrum congratulated Mayor Stone and said it was well deserved.

He stated that the annual resurfacing and curb replacement program had begun. Crews started in the Tara subdivision on Stauffer, moving over to Rhett, Scarlett and Tara and when completed will move to other areas in the City.

He said May was National Older Americans Month and this year marks the 60<sup>th</sup> anniversary of the celebration. He added that there were over 1,800 members of the Beaver Creek Senior Center, which was a great facility.

He stated that with Council's vote to renew the city's electric aggregation program for 24 more months a fixed price of 6.928 cents per kWh had been locked in and will be applied to bills from August 2023 through August 2025. He said that more information could be found on the city's website at [www.beavercreekohio.gov](http://www.beavercreekohio.gov)

He stated that there would be a primary/special election on May 2<sup>nd</sup> with polls opening at 6:30 a.m. and closing at 7:30 p.m. He said that Police Levy information could be found on the city's website at [www.beavercreekohio.gov](http://www.beavercreekohio.gov)

He said that summer is almost here and that means time to start planning for summer camp activities with the kids. He pointed out that the city's Parks, Recreation and Culture Division offer an amazing lineup of summer camps with sports, art, STEM, bowling just a few of the areas of interest offered. More information can be found at [www.beavercreekohio.gov/myrec.com](http://www.beavercreekohio.gov/myrec.com) for a full list of programs.

He stated that the Fourth of July Committee was still accepting applications for the parade with entry categories including: community members; businesses; non-profit organizations; athletic groups and more. He said that you could apply online at [www.beavercreekohio.gov/4thofJuly](http://www.beavercreekohio.gov/4thofJuly)

#### CITIZEN COMMENTS

Jim Fountain 1888 Rich Court, said he was a new resident recently moved here from Colorado. He likes to be involved in the community he lives in and just found out about the Beaver Creek Police levy on the May ballot. He found that in the city newsletter he received that the date was May 2<sup>nd</sup> as on the website it indicated May only and he asked how a resident would find out if there was anything else on the ballot for Beaver Creek.

Mayor Stone said that they had to be careful about what they put on the website when it comes to tax issues. He said that we wish we could do more. He said if he needed any further detailed information, he could ask any of the Council Members and they would be happy to answer his questions.

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Mr. Fountain said in Colorado it is a mail ballot state and they get everything in the mail. He wanted to thank Knollwood for coming to his property and planting 8 trees.

There were no further citizen comments.

ADJOURNMENT

Council Member Curran MOVED to adjourn the meeting at 6:59 p.m., seconded by Council Member Schwartz. Motion PASSED by majority voice vote.

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Bob Stone, Mayor

ATTEST:

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Debbie Haines  
Clerk of Council  
Cmim04242023



CITY OF BEAVERCREEK  
CITY COUNCIL  
AGENDA ITEM REPORT

Meeting Date: May 8, 2023 Agenda Reference No.: VII	Reference Topic: PC 23-5 Zoning Code Updates
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**ACTION REQUESTED**

<input checked="" type="checkbox"/> Adopt Ordinance	<input type="checkbox"/> Adopt Resolution	<input type="checkbox"/> Review and Comment
<input type="checkbox"/> No Action Requested	<input type="checkbox"/> Accept Staff Recommendation	<input type="checkbox"/> Adopt Motion

RESPONSIBLE DEPARTMENT OR AGENCY		
<input type="checkbox"/> Finance	<input type="checkbox"/> City Council	<input type="checkbox"/> Law
<input type="checkbox"/> Parks & Recreation	<input type="checkbox"/> Engineering	<input checked="" type="checkbox"/> Planning & Development
<input type="checkbox"/> Police	<input type="checkbox"/> Public Service	<input type="checkbox"/> City Manager
<input type="checkbox"/> Clerk of Council	<input type="checkbox"/> Human Resources	<input type="checkbox"/> Other _____

**OVERVIEW:**

As City Council is undoubtedly aware, the City has had a moratorium on Electronic Variable Message Signs or Digital Billboards since Sept 2021. The moratorium was placed on said sign types due to a dispute between the City and an applicant as to the City’s interpretation of the Electronic Variable Message Signs or Digital Billboards section of the Zoning Code. The case has since been settled through the courts, and the moratorium is set to expire July 9, 2023. In order prevent any further disputes, staff is proposing to remove Electronic Variable Message Signs or Digital Billboards and general billboards from as a permissible signage type in the Zoning Code, while allowing existing Electronic Variable Message Signs or Digital Billboards to remain as grandfathered uses.

The attached Ordinance highlights additions in bold and underlined and deletions in ~~strikethrough~~.

**RECOMMENDATION:**

Planning Commission and Staff are recommending approval of this request as outlined in the attached Ordinance.

**PROCEDURAL OPTIONS FOLLOWING ACTION:**

City Council may choose to approve amend or, deny the attached Ordinance, or table the matter for additional information.

CITY OF BEAVERCREEK, OHIO

ORDINANCE NO. 23-10 \_

SPONSORED BY COUNCIL MEMBER

ON THE

\_\_\_\_\_ DAY OF \_\_\_\_\_, 2023.

**AN ORDINANCE BY THE BEAVERCREEK CITY COUNCIL AMENDING CHAPTER 158 (THE “ZONING CODE”) OF THE CODIFIED ORDINANCES OF THE CITY OF BEAVERCREEK (THE “BCO”) BY REPEALING SECTIONS 158.003 (“DEFINITIONS”), 158.147 (“PROHIBITED PERMANENT AND TEMPORARY SIGNS”), AND 158.159 (“ELECTRONIC VARIABLE MESSAGE SIGNS OR DIGITAL BILLBOARDS”) AND ENACTING NEW SECTIONS 158.003 (“DEFINITIONS”), 158.147 (“PROHIBITED PERMANENT AND TEMPORARY SIGNS”), AND 158.159 (“ELECTRONIC VARIABLE MESSAGE SIGNS OR DIGITAL BILLBOARDS”) TO MODIFY REGULATIONS REGARDING SIGNAGE IN THE CITY OF BEAVERCREEK.**

**WHEREAS**, Article XVIII, Section 3, of the Constitution of the State of Ohio, grants municipalities the authority to exercise all powers of local self-government and to enact and enforce local police, sanitary, and other regulations that are not in conflict with the general laws of the State of Ohio; and

**WHEREAS**, the Beaver creek Planning Commission, after a duly noticed public hearing as required by law, has determined that certain provisions of the Beaver creek Zoning Code should be amended to address signage regulations in the City of Beaver creek; and

**WHEREAS**, based upon the Planning Commission’s recommendation, City Council has determined that certain sections of Chapter 158 (the “Zoning Code”) of the BCO require revision to modify regulations concerning signage in the City of Beaver creek; and

**WHEREAS**, City Council has determined that sections 158.003 (“Definitions”), 158.147 (“Prohibited Permanent and Temporary Signs”), and 158.159 (“Electronic Variable Message Signs or Digital Billboards”) of the Chapter 158 (“Zoning Code”) of the BCO should be repealed in their entirety and replaced with new sections 158.003 (“Definitions”), 158.147 (“Prohibited Permanent and Temporary Signs”), and 158.159 (“Electronic Variable Message Signs or Digital Billboards”) to modify signage regulations in the City of Beaver creek.

**NOW, THEREFORE, THE CITY OF BEAVERCREEK HEREBY  
ORDAINS: SECTION I.**

The current sections 158.003 (“Definitions”), 158.147 (“Prohibited Permanent and Temporary Signs”), and 158.159 (“Electronic Variable Message Signs or Digital Billboards”) of Chapter 158 (“Zoning Code”) of the BCO are hereby repealed in their entirety.

**SECTION II.**

New sections 158.003 (“Definitions”), 158.147 (“Prohibited Permanent and Temporary Signs”), and 158.159 (“Electronic Variable Message Signs or Digital Billboards”) of Chapter 158 (“Zoning Code”) of the BCO are hereby adopted to read as set forth in Exhibits A, B, and C, which are attached hereto and incorporated herein by reference, with additions in **bold** and underlined and deletions in ~~strikethrough~~.

**SECTION III.**

It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that any and all deliberations of this Council that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements including, but not limited to, Section 121.22 of the Ohio Revised Code.

**SECTION IV.**

This Ordinance shall take effect at the earliest time permitted by law.

PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

Bob Stone, Mayor

ATTEST:

Debbie Haines, Clerk of Council

## SUMMARY

**THIS ORDINANCE REPEALS SECTIONS 158.003 (“DEFINITIONS”), 158.147 (“PROHIBITED PERMANENT AND TEMPORARY SIGNS”), AND 158.159 (“ELECTRONIC VARIABLE MESSAGE SIGNS OR DIGITAL BILLBOARDS”) OF THE BEAVERCREEK ZONING CODE AND ADOPTS NEW SECTIONS 158.003 (“DEFINITIONS”), 158.147 (“PROHIBITED PERMANENT AND TEMPORARY SIGNS”), AND 158.159 (“ELECTRONIC VARIABLE MESSAGE SIGNS OR DIGITAL BILLBOARDS”) TO MODIFY REGULATIONS REGARDING SIGNAGE IN THE CITY OF BEAVERCREEK.**

## EXHIBIT A

### § 158.003 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. In case of any difference of meaning or implication between the text of this chapter and any caption or illustration, the text shall control.

**ACTUAL START OF CONSTRUCTION.** Either the first placement of an integral part of, or permanent construction of, a structure on a site, such as the pouring of slab footings or the installation of piles. The following shall not be construed as or be interpreted as constituting the **ACTUAL START OF CONSTRUCTION**: land preparation, such as clearing, grading and filling; the installation of streets and/or walkways; the excavation for a basement, footings, piers, foundations or the erection of temporary forms; the installation upon the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of a principal structure.

**ADDITION.** Any increase in the gross square footage of a structure.

**ADMINISTRATIVE SITE PLAN REVIEW APPROVAL (ASRA).** A site plan review process, performed by City Council and Planning Commission which ensures that the general design plan and detailed site plan for the authorized and approved use or uses on the subject property will protect or enhance the public interest, will provide a suitable and desirable arrangement of use or uses on the subject property, and the use(s) of the subject property provides favorable relationships with one another, the major natural features of the property, and surrounding properties.

**ADULT DAY CARE CENTER.** A facility which provides supervision, assistance, protection, medical or personal care for adults for a time period of less than 24 hours per day.

**ADULT ENTERTAINMENT FACILITY.** A facility having a significant portion of its function as adult entertainment which includes the following listed categories:

(1) **ADULT BOOK STORE.** An establishment having a substantial or significant portion of its stock in trade, books, magazines, or other periodicals which are distinguished or characterized by their emphasis on matter depicting or relating to "specified sexual activities" or "specified anatomical areas" as herein defined or an establishment with a segment or section devoted to the sale or display of such material.

(2) **ADULT ENTERTAINMENT BUSINESS.** Any establishment involved in the sale of services or products characterized by salacious conduct appealing to prurient interest for the observation or participation in by patrons, the exposure or presentation of "specified sexual activities" and/or "specified anatomical areas" and/or physical contact of live males or females, and which is characterized and/or portrayed by either photography, dancing, stripping, reading, massage, male or female impersonation, or similar activity or medium.

(3) For the purpose of the definition of **ADULT ENTERTAINMENT FACILITY**, "specified sexual activities" shall mean: human genitals in a state of sexual stimulation or

arousal; acts, real or simulated, of human masturbation, sexual intercourse, sodomy, cunnilingus, or fellatio; and/or fondling or other erotic touching of human genitals, pubic region, buttock or female breasts.

(4) For the purpose of the definition of **ADULT ENTERTAINMENT FACILITY**, "specified anatomical areas" shall mean: less than completely and opaquely covered human genitals, pubic region, buttock, and female breasts below a point immediately above the top of the areola; and/or human male genitals in a discernibly turgid state even if completely and opaquely covered.

(5) The definition of **ADULT ENTERTAINMENT FACILITY** excludes **LIVE SEX ACT BUSINESSES** as defined in §158.122

(6) **ADULT MINI MOTION PICTURE THEATER.** A facility with a capacity for less than 50 persons, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

(7) **ADULT MOTION PICTURE THEATER.** A facility with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

**ADVERTISING MESSAGE.** The copy on a sign describing products or services being offered to the public.

**AGRICULTURAL ACTIVITY, or FARM.** The use of land for farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, the care and/or husbandry of agricultural animals, and the necessary accessory uses for packing, treating or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of normal agricultural activities and provided further that the above uses shall not include the commercial feeding of garbage or offal to swine or other animals. Such activities, with the exception of a private, non-commercial garden, are not permitted in residential districts.

**AGRICULTURAL ANIMAL.** Animals commonly raised or kept in an agricultural rather than an urban or suburban environment including, but not limited to chickens, pigs, sheep, goats, horses, cattle, llamas, emus, ostriches, donkeys and mules.

**ALLEY.** Any public way affording a secondary means of access to abutting property, and not intended for general traffic circulation.

**ALTERATION.** Any change, addition, or modification in construction, type of occupancy, increase in floor space, the consummated act of which may be referred to herein as altered or reconstructed.

**ANIMAL DAY CARE.** Any permitted commercially zoned lot or premises on which three or more dogs, cats or other household animals more than six months of age are kept for supervision,

assistance, protection, or personal care, and/or grooming for a time period of less than 24 hours per day. Excludes overnight care. Such uses are not permitted in residential districts.

**ANNUALS.** Plant materials that complete their life cycle in one growing season.

**ANTENNA SUPPORT STRUCTURE.** Any building or structure other than a tower which can be used for location of wireless telecommunication facilities.

**APARTMENT.** A suite of rooms or a room in a multi-family building arranged and intended for a place of residence of a single family or a group of individuals living together as a single housekeeping unit.

**APARTMENT HOTEL.** A building designed for or containing both dwelling units and individual guest rooms or suites of rooms, which may include accessory uses such as gift shops, coffee shops, and the like, when such accessory uses are accessible only from the lobby.

**APPROVED LANDSCAPE PLAN.** Landscape drawings reviewed, approved, and stamped as such by the city. See also **LANDSCAPE PLAN.**

**ASSISTED LIVING FACILITY.** A residential facility of which the occupancy is typically persons of special needs because of age, or of mental and/or physical challenges, and includes assistance with personal daily activities such as dressing, grooming and bathing. Such facilities regularly provide 24 hour per day care, food, lodging, training, education supervision, habilitation, rehabilitation and treatment, as needed by the residents, who cannot care for themselves.

**AWNING.** Shelter supported entirely from the exterior wall of a building and composed of non-rigid materials except for the supporting framework.

**BANKING SERVICES.** A bank, savings and loan, credit union, or other financial institution that provides retail financial services to individuals and businesses. These uses include only those institutions engaged in the on-site circulation of cash money.

(1) **CHECK CASHING FACILITY.** A person or business that for compensation engages, in whole or in part, in the business of cashing checks, warrants, drafts, money orders of other commercial paper serving the same purpose. This does not include a state or federally chartered bank, savings association, credit union, or industrial loan company. Also, this does not include a retail seller engaged primarily in the business of selling consumer goods, including consumables, to retail buyers that cash checks or issue money orders incidentally to its principal purpose or business.

(2) **PAYDAY LOAN FACILITY.** An establishment providing loans to individuals in exchange for personal or employment checks as collateral.

**BANQUET HALL.** A room or building, with on-site cooking facilities, used for social gatherings such as receptions, reunions, parties, and business events.

**BAR, TAVERN or NIGHT CLUB.** Any establishment where the principal business is the serving of alcoholic beverages to patrons for consumption on the premises.

**BASEMENT.** The portion of a building which is partly or entirely below grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story, except as provided in **STORY** and **HALF STORY**.

**BED AND BREAKFAST.** A one family unit in which the principal use is the permanent residential quarters of the residential owner, and in which a maximum of four bedrooms in the principal structure are made available for transient occupancy for a fee, such occupancy to be for generally less than seven consecutive days per person in a 30-day period, with breakfast being served upon the premises as part of the accommodation.

**BILLIARD ROOM or POOL HALL.** Any public place wherein the game of billiards is the principal use and includes any place where a fee is charged, which is directly or indirectly conditioned upon or related to the playing of the game of billiards. Billiards means any of the several games played on a table, surrounded by an elastic ledge or cushions, with balls which are impelled by cues and shall include all forms of a game known as pool.

**BLOCK.** The property abutting one side of a street and lying between the two nearest intersecting streets, (crossing or terminating) or between the nearest such street and railroad right-of-way, unsubdivided acreage, river or live stream; or between any of the foregoing and any other barrier to the continuity of development, or corporate lines of the city.

**BOARD OF ZONING APPEALS.** The Board of Zoning Appeals for the City of Beavercreek, State of Ohio.

**BOARDER.** A person who regularly receives lodging with or without meals at another's home for pay or services, with the exception of residents of special needs homes and/or nursing homes.

**BREEZEWAY.** A roofed passageway, whether fully enclosed or not, less than ten feet wide, in cases where fully enclosed from exterior wall to the opposite exterior wall, or in cases where not enclosed from drip edge to drip edge, constructed for the purposes of connecting and accessing a detached garage or other accessory structure to the principal structure.

**BREWERY.** A business that brews 15,000 or more barrels of ales, beers, meads and/or similar beverages annually on site.

**BREWERY, MICRO.** A business that brews less than 15,000 barrels of ales, beers, meads and/or similar beverages annually on site.

**BREW PUB.** A commercial business which conducts the retail sale of beer (malt beverages with alcohol content as defined by federal law) which is brewed on the premises, no more than 5,000 barrels annually. Such establishments may also include restaurants as an accessory use.

**BUFFER.** A strip of land, with natural or planted vegetation located between any improved area of a site, including temporary and or permanent structures and parking areas and a rear or



side property line, intended to separate and partially or completely obstruct the view of two adjacent land uses or properties from one another. A buffer area may contain any required screening such as mounds and fences or stormwater detention facilities for the site.

**BUILDING.** Any structure, either temporary or permanent, having a roof supported by columns or walls, and intended for the shelter, or enclosure of persons, animals, chattels, or property of any kind; excepting any type of manufactured housing unit.

(1) **ACCESSORY BUILDING** or **ACCESSORY STRUCTURE.** A building on the same lot with, and of a nature customarily incidental and subordinate to, those of the principal building. This definition also includes buildings and structures attached to the principal structures by breezeways not meeting the conditions of § 158.104(F).

(2) **NONCONFORMING BUILDING.** See **NONCONFORMING STRUCTURE.**

(3) **PRINCIPAL BUILDING** or **PRINCIPAL STRUCTURE.** A building in which is conducted the principal use of the lot where the building is situated and includes areas such as garages and storage areas that are attached to such building or structure. This term shall not include buildings or structures in which accessory uses are conducted.

(4) **TEMPORARY BUILDING.** A building permitted to exist during periods of construction of the principal building, or for special events, but is not inhabitable. Semi truck trailers used as portable warehouses are considered to be temporary buildings and a permit shall be required when used for more than 30 days.

**BUILDING FACE** or **WALL.** All window and wall area of a building in one plane or elevation.

**BUILDING FRONTAGE.** The linear length of a building facing the right-of-way. In the case where an individual occupant would have no roadway frontage, the building frontage shall be the linear length of the building fronting the parking lot, or the maximum horizontal width of the portion of the building where that occupant's main entrance is located shall be considered that occupant's separate and distinct building frontage. In the case where the ground floor of a building is occupied by two or more different tenants, the portion of the building frontage occupied by each tenant shall be considered a separate and distinct building frontage.

**BUILDING LINE.** See **LOT SETBACK LINE.**

**CALIPER.** Measurement of nursery grown trees at time of planting at one foot above base of tree.

**CANOPY.** A roof-like structure or cover that projects from the wall of a building over a door, entrance, window, or a free-standing cover above an outdoor service area, such as an automobile service station.

**CARPORT.** A roofed structure, permanently open on at least two sides, designed for or occupied by vehicles.

**CITY COUNCIL.** The Council of the City of Beavercreek, State of Ohio.

**CLUB.** An organization of persons for a special purpose or for the promulgation of sports, arts, sciences, literature, politics, or the like, including civic, social and fraternal associations.

**COMMUNITY.** The physical environs and area located either totally or partially within the boundaries of the city.

**CONVENIENCE STORE or CARRY-OUT.** Any retail establishment offering for sale a limited line of groceries and household items intended for the convenience of the neighborhood.

**COUNTY PLANNING COMMISSION.** The Regional Planning and Coordinating Commission of Greene County, State of Ohio.

**CROWN SPREAD.** The greatest distance of a diameter of a plant.

**DBH.** Diameter at breast height. Measurement of tree trunk at four and a half feet above base of tree.

**DECIDUOUS.** Plants characterized by having leaves that fall off or shed at a specific season or stage of growth typically when the color of their leaves changes (usually from green to a brighter color, such as red, yellow or orange).

**DECK.** An open platform, projecting from the wall of a building, surrounding a pool, or free standing, which is supported by structural pillars or posts at grade, or by the principal building structure itself.

**DENSITY.** The number of dwelling units per acre of land.

**DEVELOPMENT.** Any building, construction, renovation, mining, extraction, dredging, filling, excavation, or drilling activity or operation; any material change in the use or appearance of any structure or in the land itself; any change in the intensity or use of land, such as an increase in the number of dwelling units in a structure or a change to a commercial or industrial use from a less intensive use.

**DISTRICT.** A portion of the incorporated area of the city within which certain regulations and requirements or various combinations thereof apply under the provisions of this chapter.

**DRIP LINE.** The outer perimeter of the crown of a plant projected onto the ground plane.

**DRIVE-THRU.** A business establishment other than a restaurant, so developed that its retail or service character, which is to provide a limited line of groceries or household items, is dependent on providing a drive-way approach to provide for sales and/or services to patrons who remain in their vehicles. May also include a small, walk-in convenience store.

**DRIVEWAY.** An area used as means of ingress and egress to a property.

**DRUG, CHEMICAL AND ALCOHOL ADDICTION REHABILITATION CLINIC.** An establishment for outpatient services for treatment and counseling for chemical addiction with no overnight or extended stay facilities.

**DWELLING, MULTI-FAMILY.** A building or residential structure containing three or more dwelling units.

**DWELLING, ONE-FAMILY.** A building or residential structure containing one dwelling unit.

**DWELLING, TWO-FAMILY.** A building or residential structure containing two dwelling units.

**DWELLING UNIT.** A unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

**EARTHEN BERM.** Solid earth mound shaped in a curvilinear form with a slope no greater than 3:1, typically for the purposes of screening adjacent properties with landscape plantings.

**EASEMENT.** A legal interest in real property generally established in a real estate document or on a recorded plat to reserve, convey or dedicate a use of land for a specialized or limited purpose without the transfer of fee title.

**ERECTED.** Includes attached, built, constructed, reconstructed, enlarged, moved upon, or any physical operations on the premises which are required for construction. Includes painting of wall signs, but does not include any copy changes on any sign. Excavation, fill, drainage and the like shall be considered a part of erection.

**ESSENTIAL SERVICES.** The underground, surface or overhead gas, electrical, telephone, television, steam, fuel or water transmission or distribution systems, collection, communication, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipe conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories in connection therewith, but not including buildings which are necessary for the furnishing of adequate service by such utilities or governmental departments for the general health, safety or welfare.

**EVERGREEN or CONIFEROUS.** Plant characterized by needle-like foliage that remains green and functional throughout the year.

**EXCAVATION.** Any breaking of ground, except common household gardening and ground care.

**FAMILY.** One or two persons or parents, with their direct lineal descendants and legal or foster children together with no more than two persons not so related, or a group of unrelated persons living together as a single housekeeping unit in a dwelling unit performing the social function of child-rearing.

**FARM.** See **AGRICULTURAL ACTIVITY.**

**FARM VACATION ENTERPRISES.** Farms adapted for use as vacation farms, picnicking, sports areas, fishing waters, camping, scenic vistas, nature recreation areas, watershed environmental projects, horse riding, and similar activities.

**FARMER'S MARKET.** The seasonal selling or offering for sale at retail of locally grown vegetables or produce, occurring in an area where such uses are permitted. Seasonal Christmas tree sales are considered farmer's markets.

**FEED LOT, COMMERCIAL.** Fenced lots not directly associated with a bona fide agricultural operation and used solely for the feeding of animals for marketing purposes.

**FENCE.** An artificially constructed barrier of wood, masonry, stone, chain-link, metal or any other manufactured material or combination of materials, intended to prevent straying from within or intrusion from outside the fenced area, as well as to provide screening.

**FENCE, DECORATIVE.** A maximum of two connected permanent or temporary standard fence sections designed primarily for aesthetic appeal and not intended for screening or as a method of prohibiting entry to a property.

**FENCE, KENTUCKY BOARD.** A fence constructed with uniformly spaced 6 inch wide horizontal boards, used as rails, attached to 4x4 inch, or larger, vertical fence posts.

**FENCE, SHADOWBOX.** A fence that is considered opaque by construction, but designed so that wind may flow through the fence through alternating panels on each side.

**FLOODPLAIN.** As defined by the Federal Emergency Management Agency (FEMA). Floodplains are typically riparian (along streams), coastal, or lacustrine (ocean, lakes).

**FLOOR AREA, COMMERCIAL.**

(1) **GROSS FLOOR AREA, COMMERCIAL.** Measurements of floor area shall be the sum of the horizontal areas of the several floors of the building, measured from the exterior walls.

(2) **NET FLOOR AREA, COMMERCIAL.** The area used for, or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, hallways, stairways and elevator shafts, or for utilities or sanitary facilities, shall be excluded from this computation of floor area.

**FLOOR AREA, RESIDENTIAL.** The sum of the horizontal areas of each story of the building that is measured from the exterior walls. The floor area measurement is exclusive of unfinished basements, unfinished attics, attached garages, breezeways, and enclosed and unenclosed porches, except basement areas designed and used for dwelling or business purposes. This definition shall be used for the purposes of computing the minimum floor area per unit in a residential dwelling unit.

**FOOTPRINT, ACCESSORY STRUCTURE.** The outline of the exterior/perimeter of an accessory structure, regardless if enclosed or unenclosed.

**FOOTPRINT, PRINCIPAL STRUCTURE.** The outline of the exterior/perimeter of the principal structure including attached garages but excluding all other areas incapable of year round dwelling use, such as patios and/or unenclosed porches. Used primarily for the purposes of computing the maximum allowable accessory structure square footage in a residential district.

**FRONTAGE.** The distance between the side lot lines measured along a public or private road, except in the case of a cul-de-sac or other curved street where frontage shall be measured along the required front setback line; and in the case of a corner lot or other multiple frontage lots where frontage shall be measured along all adjacent roadways.

**GARAGE, PARKING.** A space or structure or series of structures for the temporary storage or parking of motor vehicles.

**GARAGE, PRIVATE.** An accessory building or portion of a principal building designed or used primarily for the storage of motor-driven vehicles, boats and similar vehicles owned or used by the occupants of the building, constructed on a permanent concrete foundation.

**GARAGE, TEMPORARY.** An accessory building, with or without walls, designed for the storage of motor-driven vehicles, boats and similar vehicles owned or used by the occupants of the building, which is a movable, tent-like shelter. This would include inflatable and portable garages. Such temporary, portable or inflatable garages are constructed of a plastic, canvas, or similar type of material, supported by a metal or wood frame, or designed so as to be filled with air.

**GARDEN, NON-COMMERCIAL.** An area used for the growing of vegetables, flowers, etc., not for commercial sale.

**GARDEN CENTER.** Any premises including accessory buildings or structures, or a combination thereof, used for the storage of live trees, shrubs or plants offered for retail sale on the premises, including products used for gardening or landscaping.

**GRADE or GROUND LEVEL.** The average of the finished ground level at the center of all walls of a building. In case walls are parallel to and within five feet of a sidewalk, the above ground level shall be measured at the sidewalk, unless otherwise defined herein.

**GRADING.** The alteration of soils and landforms and topography usually through earthwork construction.

**GRADING LIMIT or NO GRADE ZONE.** Area of a lot or parcel which is designated not to be graded, built upon, altered or stripped of natural vegetation or features, during the grading and/or construction of a building on said lot or parcel.

**GREEN SPACE EASEMENT, NO CUT ZONE or LANDSCAPE BUFFER.** An open space landscape area that is not **WOODLAND EASEMENT** in a legal form that is acceptable to both the city and the Law Director that includes the legal description of the area that is to remain as

green space. This area may be a lawn, contain landscaping and fencing, may be used for recreation activities (active or passive), be part of the storm water detention plan and/or landscape screen buffer, if and only if existing vegetation (in the form of trees in excess of four inches in caliper) does not need to be removed to provide area for said function, unless written permission is expressly granted beforehand by the City of Beavercreek. No accessory buildings or structures (except fences) shall be permitted within areas so designated on the subdivision record plan, or on the approved specific site plan of a PUD.

**GROUND COVER.** Grass, sod, or creeping vines, and low growing shrubs, that do not exceed ten inches in height. Ground cover shall be planted at the appropriate spacing to achieve a full green mat on the surface area in approximately two years from time of planting.

**GROWING SEASON.** The last spring frost to the first fall frost.

**HAZARDOUS WASTE.** A waste with properties that make it dangerous or potentially harmful to human health or the environment. Hazardous wastes can be liquids, solids, contains gases, or sludges. They can be the by-products of manufacturing processes or simply discarded commercial products, like cleaning fluids or pesticides, as defined by the United States Environmental Protection Agency.

**HEALTH CLUB.** A place or building where passive or active exercises and related activities are performed for the purpose of physical fitness, improved circulation or flexibility, and/or weight control. The activities shall be conducted entirely within an enclosed building.

**HEDGE.** A row of shrubs or trees that are planted close to each other in order to form a boundary, fence or screening.

**HEIGHT, ACCESSORY BUILDING.** The vertical distance from the adjacent grade to the highest point of the building. Where a building is located on sloping terrain, the height may be measured from the average ground level of the grade at the front of the building wall.

**HEIGHT, PRINCIPAL BUILDING.** The vertical distance measured from the established grade to the highest point of roof surface for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and ridge for gable, hip, and gambrel roofs. Where a building is located on sloping terrain, the height may be measured from the average, ground level of the grade at the front of the building wall.

**HOME OCCUPATIONS or HOME BUSINESSES.** Any lawful commercial activity conducted within a residential dwelling unit in a residential zoning district which is clearly subordinate to the property's residential use and which meets the requirements of § 158.133 of this code.

**HOSPITAL or SANATORIUM.** An institution where sick or injured persons are given medical care and, in the course of same, are housed overnight, fed, and provided nursing and related services. This definition shall not include drug rehabilitation facilities, halfway houses, convalescent or nursing homes, institutions for mentally ill individuals, or other similar facilities.

**HOTEL.** A building occupied as a temporary abiding place for individuals who are lodged with or without meals in which there are ten or more sleeping rooms and no provision made for a cooking facility in any individual room, apartment, or suite. A hotel may include a restaurant or cocktail lounge, public banquet halls, ballrooms and/or meeting rooms.

**HOTEL, EXTENDED STAY.** A hotel which includes all facilities specified under **HOTEL**, as well as extended stay units which cater to longer-term occupancy and which have kitchen/cooking facilities within each unit.

**IMPERVIOUS SURFACE.** Any material that prevents absorption of stormwater into the ground. For the purposes of this chapter, impervious surface shall be interpreted to include but not be limited to the area covered by all buildings, all parking areas, all sidewalks, and all driveways, but shall not include existing streets or rights-of-way.

**IMPROVED SURFACE.** A permanent and continuous hard surface constructed of the either one or more of following: Portland cement concrete, bituminous/asphalt concrete, or a solid brick paver surface, excluding grass pavers, for the purpose of accommodating vehicular parking, and ingress and egress to the property.

**INDIVIDUAL ESTABLISHMENT.** A separate and distinct commercial operation.

**INSTITUTIONAL USES.** Colleges, universities, schools with any of first through twelfth grades, seminaries, places of religious assembly, public or governmental libraries, hospitals and medical centers, museums, governmental or public offices and buildings, public community centers, public recreation centers, cemeteries, or uses of similar character.

**JUNK or INOPERABLE VEHICLE.** A vehicle shall be deemed a junk or inoperable vehicle whenever any one of the following occurs:

- (1) The vehicle is without a valid current registration and/or license plate;
- (2) The vehicle is without fully inflated tires and/or has any type of support under it;
- (3) The vehicle has a substantially damaged or missing windshield, door(s), motor, transmission, or other similar major part;
- (4) The vehicle is being used only for the purpose of storage;
- (5) The vehicle is not operable and drivable within 24 hours after notification.

**JUNKYARDS or SALVAGE YARDS.** An open area where waste, used or second hand materials are bought and sold, exchanged, stored, baled, packaged, disassembled or handled including but not limited to scrap iron and other metals, paper, rags, rubber tires, and bottles. A junkyard or salvage yard includes automobile wrecking yards and includes any area in a commercial district of more than 200 square feet for storage, keeping or abandonment of junk but does not include uses established entirely within enclosed buildings. Two or more junk or inoperable vehicles shall be considered a junk yard.

**KENNEL or CATTERY.** Any permitted commercially zoned lot or premises, on which four or more dogs, cats or other domesticated household animals more than six months of age are bred and/or boarded for commercial purposes. Such uses are not permitted on lots used or zoned for residential purposes.

**LANDSCAPE CONTRACTOR.** A contractor primarily responsible for providing landscaping materials and installation of materials for residential and/or nonresidential projects. A landscape contractor's services may include, but are not limited to the following:

- (1) Site grading
- (2) Drain tile
- (3) Sodding or seeding
- (4) Landscape planting
- (5) Paved driveways, walkways and patios
- (6) Wood decks
- (7) Irrigation and water features
- (8) Wood garden structures (i.e., arbors, trellises, wood fencing)
- (9) Mulch and topsoil sales

**LANDSCAPE ISLAND.** One of three types of islands that is required to be planted per parking lot interior requirements.

(1) **INTERIOR (PARKING LOT) ISLAND.** The landscape island between terminal islands, constructed with barrier curb, separating parking bays.

(2) **STANDARD LANDSCAPE ISLAND.** Islands that are parallel with parked cars and perpendicular to interior islands. These islands are useful for providing separation for long strips of parking and additional tree plantings as required.

(3) **TERMINAL LANDSCAPE ISLAND.** Landscape islands at the ends of parking bays, usually at the edge of an intersection of aisles. These islands are required at the terminus of all parking bays.

**LANDSCAPE PLAN.** The drawings submitted to the city for review illustrating the design layouts, species, quantities, and construction details for installing landscape planting materials, and other information as required by § 158.135.

**LANDSCAPE STRIP.** The area between parking lots and public rights-of-way required to be planted with trees and other plantings.

**LATCH KEY PROGRAM.** Program providing care and oversight of children, primarily between the close of the school day and the end of the business day. Such programs require licensing by the state and are intended to provide an alternative to children returning to an empty house after school is over; also known as "Schoolchild Day Care Center".

**LOADING AREA.** An area other than a street, public right-of-way, or required parking space, the principal use of which is loading and unloading of trucks and/or trailers, to avoid undue interference of vehicular traffic circulation on streets, parking stalls and drive aisles.

**LOADING SPACE.** An off-street space marked as dedicated for the loading and unloading of vehicles containing materials necessary to the functioning of the business contained therein and located on the same lot with a building, or a group of buildings and accessory buildings.



**LOT.** A parcel of land, the dimensions of which are shown on a document or map filed with the Greene County Recorder's Office, and which actually exists as so shown, or any part of such parcel held in a record of ownership separate from that of the remainder thereof.

**LOT AREA.** The computed area contained within the lot lines.

**LOT, CORNER.** A lot which has two contiguous sides, each abutting upon a street for its full length.

**LOT COVERAGE.** The percentage of the lot occupied by a building or buildings, including accessory buildings.

**LOT, DOUBLE AND OTHER MULTIPLE FRONTAGE.** A lot which fronts on more than one public or private road. All frontages of such lots shall comply with required setbacks from adjacent roadways for the zoning district in which they are located.

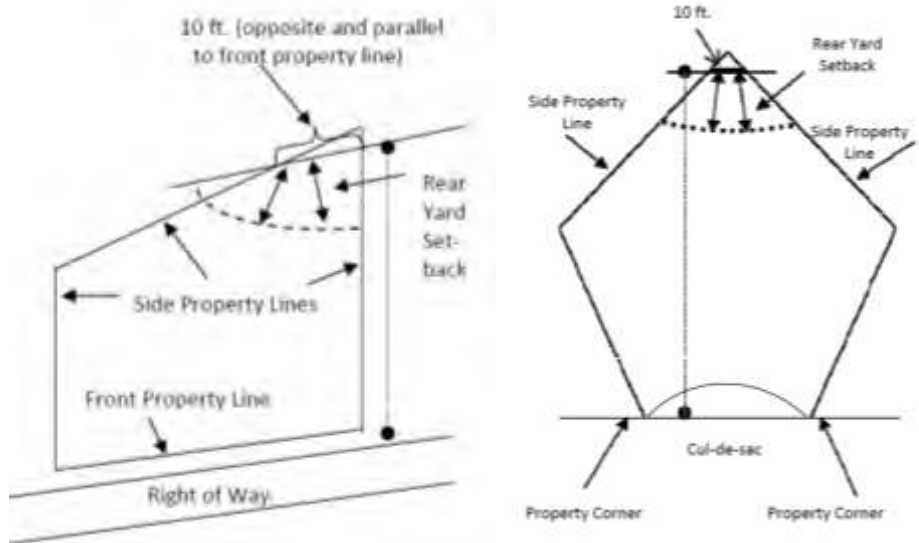
**LOT, INTERIOR.** Any lot other than a corner, double or multiple frontage lot.

**LOT LINES.** The lines bounding a lot.

(1) **FRONT LOT LINE.** In the case of an interior lot, the front lot line is that line separating the lot from the rights-of-way. In the case of a corner lot and double or multiple frontage lots, front lot lines are those lines separating the lot from all rights-of-way immediately abutting the lot.

(2) **REAR LOT LINE.** For interior lots, the lot line opposite the front lot line shall be the rear lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten feet long, lying farthest from the front lot line and wholly within the lot. In the case of a corner lot, the rear lot line is a point most distant from the front lot lines at which the two interior lot lines intersect. In the case of a double or multiple frontage lot, there is no rear lot line.

(a) In the case of irregular, triangular, or other irregular shaped lots, the measurement of the rear setback is taken from a line ten (10) ft. in length within the lot, parallel to and at a maximum distance from the front lot line.



(3) **SIDE LOT LINE.** Any lot line other than the front lot line or rear lot line.

**LOT SETBACK LINE.** A line parallel to a lot line, thoroughfare, road or street, or right-of-way line at any story level of a building which represents the distance which the exterior wall of a building or structure is to be set back from said lot line, street, or right-of-way. See also § 158.110, Projections into Required Yards.

(1) **FRONT SETBACK LINE.** An imaginary line parallel to the front lot line extending the full width of the lot, representing the distance which the nearest point of the exterior wall of any structure or building is to be set back from the front lot line. In the event that the front lot line does not fall along a right-of-way line, then the front setback line shall be measured from a line parallel to the centerline of the street, road or thoroughfare at the edge of the right-of-way nearest to the property.

(2) **REAR SETBACK LINE.** An imaginary line parallel to any rear lot line representing the distance which the nearest point of the exterior wall of any building is to be set back from the rear lot line. In the case of a corner lot, the rear setback line is an imaginary line on an arc from a point most distant from the front lot lines at which the two side lot lines intersect.

(3) **SIDE SETBACK LINE.** An imaginary line parallel to any side lot line representing the distance which the nearest point of the exterior wall that a building is to be set back from a side lot line.

**LOT WIDTH.** The horizontal distance between the side lot lines measured at the two points where the building line, or setback line intersects the side lot lines.

**LOT YARDS.** The open spaces on the same lot with a principal building unoccupied and unobstructed from the ground upward except as otherwise provided in this chapter.

(1) **FRONT YARD.** Any open space extending the full width of the lot, the depths of which are the minimum horizontal distances between the front lot line and nearest points of the principal building. In the case of a corner lot and a double or multiple frontage lot, the front yard

is the minimum horizontal distance between the nearest part of the principal building and the front lot lines.

(2) **REAR YARD.** An open space extending the full width of the lot the depths of which are the minimum horizontal distances between the rear lot line and the nearest points of the principal building. In the case of a corner lot, the rear yard is an area bounded by the side lot lines and an imaginary line on an arc from a point most distant from the front lot lines at which the side lot lines intersect.

(3) **SIDE YARD.** An open space between a principal building and the side lot line, extending from the front yard to the rear yard, the widths of which are the minimum horizontal distances from the nearest point of the side lot line to the nearest point of the principal building.

(4) **REQUIRED YARD.** Area located within the minimum front, side or rear yard setback, as defined in the individual zoning district in which it is located.

**MANUFACTURED HOME.** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term **MANUFACTURED HOME** does not include a recreational vehicle. For the purposes of these regulations, a manufactured home includes manufactured homes and mobile homes as defined in R.C. Chapter 3733 and is subject to review and approval by the United States Department of Housing and Urban Development (HUD).

**MANUFACTURED HOME PARK.** Any tract of land upon which two or more manufactured homes used for habitation are parked, either free of charge or for revenue purposes, and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as a part of the facilities of the park. This term does not include any tract of land used solely for the storage or display for sale of manufactured homes or solely as a temporary park or camp.

**MARQUEE.** Any permanent structure which provides shelter to multiple tenants and projects from a wall of a building over a walkway or entranceway to a shopping center and plaza generally ten feet or more above a walkway.

**MEDICAL CLINIC.** An establishment where human patients who are not lodged overnight are admitted for examination and treatment by a group of physicians, dentists or similar medical professionals.

**MEETING or PARTY ROOM.** A room or building, without on-site cooking facilities, used for social gatherings such as receptions, reunions, parties, and business events.

**MEZZANINE.** An intermediate floor in any story occupying no greater than two-thirds of the floor area of such story.

**MODULAR HOME.** A home built indoors and in a controlled environment (factory), which is transported on a flat bed tractor trailer, and must comply with the State Building Code of Ohio as distinguished from a manufactured home built under Federal HUD regulations.

**MOTEL.** A series of attached, semi-detached or detached rental units containing bedroom, bathroom and closet space. Units shall provide for overnight lodging, offered to the public for compensation, and cater primarily to the public traveling by motor vehicle. It may include all facilities specified under **HOTEL**.

**MOTHER-IN-LAW SUITE.** Accommodation for relatives of the principal owner/occupant of a house, including bathroom facilities, and which utilizes the same principal access point to the home. Also known as a "granny flat".

**MULCH.** Any organic product used for soil retention, erosion control, and weed control.

**NONCONFORMING LOT OF RECORD.** A lot which is part of a subdivision, which has been recorded in the office of the Greene County Auditor; or a non-platted parcel of land, the deed to which was of record prior to the effective date of this chapter, or amendments thereto; neither of which conforms to the current minimum area, width, or frontage requirements of this chapter.

**NONCONFORMING STRUCTURE.** A structure lawfully existing prior to the effective date of this chapter or amendments thereto and that no longer conforms to the provisions of the chapter for the district in which it is located.

**NONCONFORMING USE.** A use which lawfully occupied a building or land prior to the effective date of this chapter or amendments thereto and that no longer conforms to the use regulations of the district in which it is located.

**NURSERY.** A space including accessory buildings or structures for the principal purpose of growing or the storing of live trees, shrubs or plants offered for retail sale on the premises, including products used for gardening or landscaping.

**NURSERY GROWN.** Trees that have been grown in a nursery recognized by the American Association of Nurserymen for the past two years under climate controlled conditions similar to those in Southwest Central Ohio.

**NURSERY SCHOOL or DAY CARE CENTER.** Any premise where care is provided for seven or more children (except for family members) who do not reside in the facility, are present primarily during daytime hours, and who do not stay overnight, with or without compensation, except as exempted under the Child Day Care Licensing Law (R.C. §§ 5104.01 through 5104.99) of this state. This definition includes private schools for preschool children and **LATCH KEY PROGRAM**.

**NURSING HOME, ASSISTED LIVING FACILITIES, or CONVALESCENT HOME.** A facility used for the reception and care of individuals who by reason of illness or physical or mental impairment require skilled nursing care as defined in the Ohio Revised Code, or a facility for individuals who require personal care services as defined in the Ohio Revised Code but no skilled nursing care. For the purposes of this chapter, nursing home or convalescent home shall include the Ohio Revised Code definitions for "Nursing Home", "Residential Care Facility" and "Home for Aging".

**OFF-STREET PARKING LOT.** A facility providing vehicular parking spaces along with adequate landscaping, drives, and aisles for maneuvering, so as to provide access for entrance and exit for the parking of more than two vehicles.

**OPAQUE.** Ninety percent to 100% blocked view usually required for screening purposes. Opacity can be achieved by one or more of the following: fences, walls, earthen berms, or densely planted massings of coniferous shrubs or trees.

**OPEN SPACE.** Any area or areas within a development not covered by structures, parking lots, asphalt and/or concrete pavement. Areas within PUDs other than those listed may be considered as Open Space, to be determined within the PUD process.

**OPEN SPACE (COMMON).** The area either dedicated to the public or commonly owned and/or available to all the residents of a development area.

**ORDINARY PUBLIC VIEW.** Readily visible by a person on a public or private street, sidewalk, or lot adjacent to the property.

**ORNAMENTAL TREES.** Typically deciduous woody trees, usually with ornamental characteristics. These trees usually have one single stem with branching stems occurring several feet above the base of the tree or multiple stems branching near the base of the tree.

**OWNER.** Any legal entity, person or otherwise who holds superior title to and can evidence superior title in real or personal property.

**PARAPET or PARAPET WALL.** The portion of a building wall that rises above the roof level.

**PARCEL.** A distinct portion or tract of land as is recorded and distinguished in the Greene County Auditor's Property Tax Atlas.

**PARK GRADE TREE.** Trees that have branching defects or abnormal growth and do not meet the American Standards for Nursery Stock.

**PARKING AREA.** Any pad not meeting the definition of **DRIVEWAY** and/or is being used to park or store vehicles.

**PARKING LOT INTERIOR.** The total area of any parking lot encompassing all areas within the perimeter of the parking lot including planting islands, curbed areas, corner areas, parking spaces, and all interior driveways and aisles.

**PARKING SPACE.** A space for the temporary storage or parking of a motor vehicle within a public or private parking area that is directly accessible to an access aisle or that is located in a dedicated street right-of-way.

**PATIO.** An uncovered outdoor floor, usually made of concrete, brick or other masonry material, no more than 12 inches higher than the adjacent grade, which is intended for outdoor lounging, dining or like uses.

**PERENNIALS.** Herbaceous ornamental plants which persist throughout the year and repeat or renew themselves for several years.

**PERSON.** Any individual, corporation, association, firm, partnership, LLC, LPA and the like, singular or plural.

**PERVIOUS SURFACE.** Penetrable and permeable surface area such as grass, open green space, or landscape areas where water is usually capable of reaching the underground water table.

**PLACE OF RELIGIOUS ASSEMBLY.** A building, including accessory buildings and uses, where persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship. Nursery schools, kindergarten, day care, and compulsory (grades 1-12) schools may be permitted as conditional use(s) accessory to the principal place of religious assembly.

**PLANNED UNIT DEVELOPMENT (PUD).** Land under unified control, planned and developed as a whole according to comprehensive and detailed plans. Development may be a single operation or a definite sequential series of development operations including all lands and buildings, with a program for provisions, operation and maintenance of such areas, improvements and facilities necessary for common use by the occupants of the development.

**PLANNED UNIT DEVELOPMENT (PUD) AGREEMENT.** An agreement, entered into between the city and the developer, property owner, or business owner intended to assure the completion of certain improvements, either not usually included in a Subdivider's Contract and bonded or in the absence of a Subdivider's Contract and bonding, which may not otherwise be completed in a timely and satisfactory manner. Such improvements may include, but are not limited to, landscaping, erosion control, roadway improvements, and detention facilities.

**PLANNING COMMISSION.** The Planning Commission of the City of Beavercreek, State of Ohio.

**PREMISES.** An area of land with its appurtenances and buildings which, because of its unity of use, may be regarded as the smallest conveyable unit of real estate.

**PRESERVED TREE.** An existing tree indicated on the "Approved Landscape Plan" designated to be saved. Guidelines must be followed for the preservation of existing trees. See §158.135.

**PUBLIC UTILITY.** Any person, firm, corporation, or governmental agency, board or commission duly authorized to furnish and furnishing under state, county or city regulations to the public gas, steam, electricity, sewage disposal, communication, Wi-Fi, cable or satellite television, telephone, transportation or water.

**RECREATION CLUB or ASSOCIATION.** Any private organization, corporation, club or association formed principally for the purpose of the operation of recreation programs and/or facilities for the benefit of their members and guests.

**RECREATIONAL FACILITY.** A private or commercial facility or park used for the purpose of the operation of active or passive recreation programs, such as golf courses, miniature golf courses, sporting facilities, boating facilities, fishing facilities and/or swimming facilities.

**RECREATIONAL VEHICLE.** Includes the following:

(1) **TRAVEL TRAILER.** A vehicle built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation uses.

(2) **PICK-UP CAMPER.** A portable dwelling designed primarily to be mounted on a pick-up truck chassis or in a truck bed and with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreational and vacation uses.

(3) **MOTOR HOME.** A portable dwelling designed and constructed as a self-mounted vehicle on wheels and designed for travel, recreational and vacation uses.

(4) **BOAT and BOAT TRAILER.** Includes floats, rafts and personal water craft, plus the normal equipment to transport the same on the highway.

(5) **FOLD-OUT TENT TRAILER.**

**RECYCLING CENTER.** A place where secondhand, discarded or scrap materials are bought, sold, exchanged, stored, processed or handled. Materials may include scrap metal, structural steel, rags, rubber tires, discarded goods, equipment, appliances or machinery. The term also includes a site for collection, sorting, storing and processing of paper products, glass, plastics, aluminum or tin cans prior to shipment for remanufacture into new materials. This definition does not include **HAZARDOUS WASTE**, as defined by this chapter.

**RESTAURANT.** An establishment whose principal business is serving food and beverages to patrons either inside or through a drive-thru window for consumption on the premises or to take away from the premises.

**RESTAURANT, DRIVE-IN.** A building and adjoining parking area used for the purpose of serving food and beverages to the public primarily for consumption in vehicles parked upon the premises, which also may include seating or other accommodations provided for its patrons.

**RETIREMENT COMMUNITY.** An age-restricted development providing housing for the elderly in conformance with 42 USC Section 3607(b)(2), which may include detached and attached dwelling units and apartments for independent living, and may also have a nursing home component.

**RIGHT-OF-WAY.** A strip of land dedicated for use as a public roadway or dedicated for public use. In addition to the roadway, a right-of-way normally incorporates the curbs, lawn strips, sidewalks, lighting, drainage facilities and utilities and may include special features (required by the topography or treatment) such as grade separation, landscaped areas, viaducts, and bridges.

**RIGHT-OF-WAY, FUTURE.** A line or width indicating or otherwise describing the limit to which future rights-of-way will be required, based on roadway improvements or upgrades planned in the City of Beavercreek Thoroughfare Plan.

**ROOF LINE.** The top edge of the roof or the top of the parapet, whichever forms the top line of the building silhouette.

**ROW HOUSE or TOWN HOUSE.** A row of three or more attached one-family dwelling units, of which each unit is separated by a vertical wall, extending through the trusses to the roof.

**SCHOOL, PRIVATE.** Any building or group of buildings, the use of which meets the Ohio Department of Education requirements for primary, secondary or higher education and which does not secure the major part of its funding from any governmental agency.

**SCHOOL, TECHNICAL TRAINING.** A school established to provide for the teaching of a specific industrial, clerical, managerial or artistic skill. This definition applies to schools that are owned and operated privately for profit and that do not offer a complete educational curriculum, including, but not limited to beauty schools, bartending schools, truck driving schools and the like.

**SELF STORAGE WAREHOUSE.** A structure containing separate, individual, and private storage spaces of varying sizes, leased or rented on individual leases generally for storage of items, provided that there is no storage outside of a warehouse facility and no retail sales (including onsite auctions, and vehicle rental) other than limited sales to tenants of products and supplies incidental to the principal use such as packing materials, labels, tape, rope, locks and chains.

**SENIOR HOUSING FACILITY.** A residential facility of which the occupancy is limited to persons 55 years of age or older, and such facilities may include a congregate meal program in a common dining area, but exclude institutional care such as medical or nursing care.

**SERVICE STRUCTURE.** Dumpsters, trash pads, trash collection storage areas or other structures that are required to be screened.

**SHADE TREES.** Large, usually deciduous woody trees with a large crown and overhead canopy typical at maturity. These trees usually have one trunk with branching stems occurring several feet above the base of the tree.

**SHRUB.** Deciduous or evergreen perennial with multiple woody stems or branches, generally bearing branches from or near its base. Shrubs generally do not exceed 15 feet at mature height.

**SIGN.** A name, identification, description, display or illustration which is affixed to or painted upon or represented directly or indirectly upon a building, structure or piece of land or affixed to the glass on the outside or inside of a window so as to be seen from the outside of a building and which directs attention to an object, product, place, activity, person, institution, organization or business. For the purpose of removal, signs shall also include all supporting structures.



(1) **SIGN AREA.** The entire area within a single continuous perimeter enclosing the extreme limits of writing, representation, emblem, corporate logo, or any figure or similar character together with any frame or other material or color forming an integral part of the display, or used to differentiate such sign from the background against which it is placed. The necessary supports or uprights on which such sign is placed, not being advertising matter, shall not be included in computation of sign area. In the event a sign is of irregular shape, calculations of sign area shall be made by super-imposing an imaginary rectangle large enough to enclose the entire copy area. The area of a sign having more than one display surface shall be computed as the total of the exposed exterior display surface.

(a) **BACKGROUND AREA.** The entire sign area on which copy could be placed, as opposed to the copy area, when referred to in connection with wall signs.

(b) **COPY AREA.** The area in square feet of the smallest rectangle which describes the area enclosed by the actual copy of a sign. For wall signs, the copy area is determined by the smallest single rectangle enclosing the entire copy area and change panel where the copy is located.

(c) **DISPLAY SURFACE.** The area made available by the sign structure for the purpose of displaying a message.

(d) **FACE OF SIGN.** The entire area of sign on which copy could be placed.

(2) **SIGN HEIGHT.** The vertical distance measured from the adjacent street grade or upper surface of the nearest street curb excluding any elevated roadway, which permits the greatest height to the highest point of the sign. (See Appendix C).

(3) **SIGN ILLUMINATION.**

(a) **DIRECTLY ILLUMINATED.** Any sign designed to provide artificial light either through exposed lighting on the sign face or through transparent or translucent material from a light source within the sign.

(b) **INDIRECTLY ILLUMINATED.** Any sign which reflects light from a source intentionally directed upon it for example, by means of floodlights, gooseneck reflectors or externally mounted fluorescent light fixtures.

(c) **INDIRECT LIGHTING.** A source of external illumination located a distance away from the sign, which lights a sign but is itself not visible to persons viewing the sign from any normal position.

(d) **INTERNAL LIGHTING.** A source(s) of illumination entirely within the sign which makes the sign content visible at night but is itself not visible to persons viewing the sign from any normal position.

(e) **LIGHTING DEVICE.** Any light, string of lights or group of lights located or arranged so as to cause illumination of a sign.

**SIGN, ABANDONED.** All signs on premises including, but not limited to monument, pylon, wall, canopy or other signs related to a commercial space which has been vacated.

**SIGN, ACTION.** Any sign which, in part or total, rotates, revolves or otherwise is in motion. This would include the apparent movement of any light used in connection with the sign such as blinking, traveling, changing of intensity or any movement other than burning steadily.

**SIGN, ANIMATED OR MOVING .** Any sign which includes action or motion. For purposes of this chapter, this term does not refer to **SIGN, FLASHING**, which is separately defined.

**SIGN, AWNING.** A permanent sign that is mounted or painted on or attached to a seasonal or permanent awning structure.

**SIGN, BANNER.** Temporary sign composed of lightweight material secured or mounted so as to allow movement of the sign caused by movement of the atmosphere.

**BILLBOARD. A commercial sign with a sign area exceeding 150 square feet and a height exceeding 7 feet.**

**SIGN, BLADE.** A small, pedestrian-oriented sign which projects perpendicularly from a structure or is hung beneath a canopy. A blade sign which projects more than 30 inches from the structure is considered a **PROJECTING SIGN** and is prohibited.

**SIGN, BUILDING.** Sign lettered to give the name of a building itself, as opposed to the name of occupants or services.

**SIGN, BULLETIN BOARD.** Any sign located on the property of a public, institutional, religious or charitable organization which is used to announce its activities.

**SIGN, BUSINESS.** Any sign which directs attention to a business, profession, commodity or entertainment conducted, sold or offered upon the same lot.

**SIGN, CANOPY.** Any permanent sign attached to or constructed in or on a canopy.

**SIGN, CHANGEABLE COPY.** Sign on which copy is changed manually or electronically in the field such as reader boards with changeable letters or changeable pictorial panels.

**SIGN, COMMEMORATIVE.** A sign located on a site of memorable public interest or historical significance.

**SIGN, COMMERCIAL MESSAGE. Any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.**

**SIGN, COMMERCIAL. A sign which contains a commercial message.**

**SIGN, ELECTRICAL.** Any sign containing electrical wiring which is attached or intended to be attached to an electrical energy source.

**SIGN, ELECTRONIC VARIABLE MESSAGE SIGN, SHUTTER STYLE SIGN or DIGITAL BILLBOARD.** A sign that directs attention to a business, commodity, services, or entertainment conducted, sold or offered and, other than the supporting structure, is constructed so that the entire face of the sign is an electronic screen, display or device that changes the message or copy of the sign electronically.

**SIGN, EXEMPT.** A sign exempted from normal permit requirements.

**SIGN, FLASHING.** Any sign which contains an intermittent or flashing light source, or which includes the illusion of intermittent or flashing light by means of animation, or an externally mounted intermittent light source.

**SIGN, GOVERNMENTAL.** A sign erected and maintained pursuant to and in discharge of any governmental functions, or required by law, ordinance or other governmental regulation for the purpose of informing or guiding the public.

**SIGN, GROUND.** A sign which is supported by one or more upright poles or braces in or upon the ground, which are not part of the building, and which does not exceed eight feet in height, also known as a monument sign.

**SIGN, ILLEGAL.** Any sign which is contrary to the requirements of this code and does not satisfy the nonconforming specifications stated in this code.

**SIGN, MARQUEE.** Any permanent sign attached to or constructed in or on a marquee.

**SIGN MESSAGE.** The wording, copy, logo, or similar identifying form on a sign.

**SIGN, NEON OR NEON-TYPE.** Any arrangement of exposed and visible illuminated neon or neon tubes, fiber optics, light emitting diodes, or similar technology, excluding banding around any part of the perimeter of the building.

**NON-COMMERCIAL MESSAGE.** **A message which may not be related to the advertisement of any product or service or the identification of any business and is not intended to produce any commercial benefit or does not encourage a commercial transaction.**

**NON-COMMERCIAL SIGN.** **A sign containing a non-commercial message. Any sign that can be displayed under the provisions of this Code may contain a non-commercial message.**

**SIGN, NONCONFORMING.** Any sign lawfully existing prior to the effective date of this chapter or amendments thereto, which no longer conforms to all standards and regulations of the current chapter. See also **NONCONFORMING USE.**

**SIGN, PERMANENT.** A sign permitted by this code to be located on the premises for an unlimited period of time.

**SIGN, PYLON.** A permanent sign that is mounted on a free-standing pole or other support, and exceeds eight feet in height.

**SIGN, RACEWAY.** Any sign which contains individual letters that are mounted on a common aluminum channel box, known as a raceway or ballast box. The lettering typically contains all electrical components including wiring and transformers needed for the operation of the sign. The raceway itself is attached to the wall, rather than the individual letters.

**SIGN, ROOF.** Any sign erected upon, against, or directly above a roof or on top of or above the parapet of a building.

**SIGN, ROTATING.** Any sign or portion of a sign which moves in a revolving or similar manner, but not including multi-prism indexing signs.

**SIGN, SCROLLING ELECTRONIC.** A sign such as an electronically controlled public service time, temperature and date sign, message center or reader board where different copy changes are shown on the same lamp bank. See also **SIGN, CHANGEABLE COPY.**

**SIGN STRUCTURE.** Any structure which supports, has supported or is capable of supporting a sign, including decorative cover.

**SIGN, TEMPORARY.** A sign which is designed to be used only for a limited period of time, and is not, nor intended to be, permanently affixed to a building, structure or the ground. ~~A sign which is not permanently affixed.~~ All devices such as banners, pennants, flags, (not intended to include a flag of any nation) searchlights, twirling or sandwich type signs, sidewalk or curb signs and balloons or other air or gas filled figures.

**SIGN, TEMPORARY GROUND.** A sign that is not permanently affixed to a stand or the ground (e.g. A-Frame or portable sign).

**SIGN, TEMPORARY WINDOW.** A sign painted on the interior of a window or constructed of paper, cloth or other like material and attached to the interior side of a window for a sale of merchandise or a change in the status of the business.

**SIGN, UNDER CANOPY.** A sign suspended below the ceiling or roof of a canopy or marquee.

**SIGN, WALL.** Sign attached to a wall of a building, with the face horizontally or vertically parallel to the building wall.

**SIGN, WINDOW.** Signs affixed to the glass on the inside of a window, or erected within three feet of a window on the inside of a building, so as to be seen from the outside of a building.

**SLOPE.** The relationship between the change in elevation of land (rise) and the horizontal distance over which that change in elevation occurs (run). Slope may be calculated by dividing the rise by the run, multiplied by 100, and expressed as a percentage, or shown as a ratio.

**SMALL CELL FACILITY.** A wireless facility that meets both of the following requirements:

(1) Each antenna is located inside an enclosure of not more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an enclosure of not more than six cubic feet in volume.

(2) All other wireless equipment associated with the facility is cumulatively not more than 28 cubic feet in volume. The calculation of equipment volume shall not include electric meters, concealment switches, cut-off switches, and vertical cable runs for the connection of power and other services.

**SOLAR ENERGY.** Radiant energy (direct, diffused, and reflected) received from the sun.

**SOLAR FARM.** A solar energy operation whose primary purpose is the sale of solar energy for commercial gain.

**SPECIFIC SITE PLAN.** A detailed development plan for a part of, or all of, a planned unit development indicating the specific proposed locations of structures, signs, parking areas, means of vehicular access and movement, pedestrian walkways, landscaping and open space, lighting plans, buffering and screening devices, utility services, drainage and runoff control systems, and other details.

**STORY.** The part of a building, except a mezzanine as defined herein, included between the surface of one floor and the surface of the next floor, or if there is no floor above, then the ceiling next above. If the floor level directly above a basement is more than six feet above grade, such basement shall be considered a story.

**STORY, HALF.** An uppermost story lying under a sloping roof having an area of at least 200 square feet with a clear height of seven feet six inches. For the purpose of this chapter, the usable floor area is only that area having at least four feet clear height between floor and ceiling.

**STRUCTURE.** Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

**SUPPLEMENTARY CONDITIONS.** The Board of Zoning Appeals, the Planning Commission or City Council conditions that modify or alter proposed PUD zoning classification application, specific site plan applications, ASRAs, variances, or conditional uses.

**SWIMMING POOL.** A structure exceeding 100 square feet in water surface area or 12 feet in diameter, constructed or placed below ground or above ground, which is suitable or utilized for swimming or wading.

**TALL STRUCTURES.** Telecommunication towers, smoke stacks, water towers, buildings 35 feet and higher, light standards and roadway lighting poles, steeples for places of religious assembly, electric transmission towers, and similar structures.

**TAXICAB BUSINESS.** A service that offers motor vehicles, other than limousines, to the public for the purpose of carrying or transporting passengers for a charge or a fee. The business

may include facilities for storing, servicing, repairing and fueling the taxicabs or vans used by the business.

**TEEN CLUB.** A social club for teenagers, providing meeting space, recreational games, music and other supervised activities, where the sale of alcohol is not permitted on such premises. Such facilities may operate until midnight unless special permission is granted by the City Manager. Supervision by an adult(s) at least 21 years of age is required at all times.

**TEMPORARY STORAGE UNIT.** Any container that is designed to be transportable and used primarily for temporary storage of building materials, household goods, personal items and other materials for use for a predetermined amount of time, or after being filled is commercially transported for long-term, off-site storage.

**TENT.** Any structure used for living or sleeping purposes, or for sheltering a public or private gathering, constructed wholly or in part from canvas, tarpaulin, or other similar materials and shall include shelter provided for circuses, carnivals, side shows, revival meetings, camp meetings and all similar meetings or exhibitions in temporary structures.

**THOROUGHFARE PLAN.** The official plan of the major highways and streets, on file in the office of the City of Beavercreek Engineering Department, including all amendments and supplements subsequently adopted. *Road classification.* The assignment of roads into categories according to the level of service they provide in relations to the total road network. The categories included in the *City of Beavercreek Thoroughfare Plan* include **ARTERIALS, MAJOR ARTERIALS, PRINCIPAL ARTERIALS, COMMERCIAL COLLECTORS, RESIDENTIAL COLLECTORS, CUL-DE-SACS, EXPRESSWAYS or FREEWAYS,** and **LOCAL STREETS.**

(1) **ARTERIALS.** This class of street serves as a through connector. Residential properties should be serviced by side streets with these intersections employing a variety of traffic controls. These streets usually have carrying capacity of 2,000 to 10,000 daily trips. See also *The City of Beavercreek Thoroughfare Plan.*

(2) **ARTERIALS, MAJOR.** This class of street has little frontage facing commercial or residential properties. These roads are ideally served by the collectors and arterial roads with entrances and exits controlled. Speeds of 35 mph to 45 mph are typical for this class of road with daily volumes ranging from 10,000 to 15,000. See also the *City of Beavercreek Thoroughfare Plan.*

(3) **ARTERIALS, PRINCIPAL.** This class of street brings traffic to and from expressways and other high speed interurban connectors. Principal arterials interconnect the principal traffic generators within the city as well as trips between different areas of the city and should be part of a reasonably integrated system. The typical trip on this class of road usually exceeds one mile. This class of road can carry from 15,000 to 20,000 daily trips. See also *The City of Beavercreek Thoroughfare Plan.*

(4) **COLLECTORS, COMMERCIAL.** This class of street serves major commercial developments. Of necessity, this class of road is short but should have a long term heavy weight capacity. Concrete construction is usually a prerequisite. Signalized access to arterial roads is

usually required in the best interest of safety. See also *The City of Beavercreek Thoroughfare Plan*.

(5) **COLLECTORS, RESIDENTIAL.** This class of street serves internal traffic movements within areas of the city, such as subdivisions, and acts as feeders to the arterial system. These streets are usually short, ½ to 1 mile, and are not designed to handle through trips. This class of street does not usually have signalized intersection control and handles less than 2,000 daily trips. See also *The City of Beavercreek Thoroughfare Plan*.

(6) **CUL-DE-SAC.** A local street of relatively short length with one end open to traffic and the other end permanently closed with a vehicular turnaround. See also *The City of Beavercreek Thoroughfare Plan*.

(7) **EXPRESSWAYS or FREEWAYS.** This class of roadway is designed for the high speed movement of a variety of vehicular traffic. It is characterized by fully controlled access points with complete grade separations at intersections. Expressways may have four to eight lanes of traffic with an expected carrying capacity of 1,500 vehicles per hour per lane. See also *The City of Beavercreek Thoroughfare Plan*.

(8) **LOCAL STREETS.** These streets serve as direct access to adjacent land, are usually less than ½ mile in length and are utilized predominately by privately owned vehicles. These roads do not serve as connectors and have speed of 25 mph or less. See also *The City of Beavercreek Thoroughfare Plan*.

**TOWER, AMATEUR RADIO.** Any outdoor structure designed and constructed to be used exclusively by licensed amateur radio operators for transmitting or receiving radio frequency signals.

**TOWER, GUYED WIRE.** A tower that is supported by the use of cables (guyed wires) that are permanently anchored to the ground.

**TOWER, LATTICE.** A type of tower that is self-supporting with multiple legs and cross-bracing of structural steel.

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

**TOWER, WIRELESS TELECOMMUNICATION.** Any freestanding structure including a lattice, monopole or guywire tower, used to support a wireless telecommunication antenna, but not including amateur radio operator equipment as licensed and required by the FCC.

**TRAILER.** A structure standing on wheels which is intended to be towed or hauled by a motorized vehicle and used for carrying of materials, goods or objects, or as a temporary office.

**UNDERWRITER'S LABORATORIES.** A non-profit organization which establishes standards for electrical equipment and mechanical equipment and materials and commonly referred to as "UL". The electrical section is known as "Underwriters Laboratories".

**USE.** A purpose for which land, a building, lot, sign or other structure is arranged, intended, designed, occupied or maintained.

(1) **ACCESSORY USE.** A use on the same lot with, and customarily incidental and subordinate to that of the principal use or building.

(2) **CONDITIONAL USE.** A use permitted within a district other than a permitted principal use, requiring a conditional use approval by the Planning Commission. Additional uses permitted in each district are listed in the Schedule of Principal Permitted Uses.

(3) **NONCONFORMING USE.** A use which lawfully occupied a building or land at the effective date of this chapter or amendments thereto and that no longer conforms to the use regulations of the district in which it is located.

(4) **PRINCIPAL USE.** The main use to which the premises is devoted and the principal purpose for which the premises exist.

(5) **TEMPORARY USE.** A use established for a fixed period of time with the intent that such use will terminate automatically upon expiration of the fixed time period unless permission to conduct the use is renewed.

**VARIANCE.** A modification of the literal provisions of this chapter granted when strict enforcement of this chapter would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted. The crucial points of a variance are undue hardship and unique circumstances applying to the property. A variance is not justified unless both elements are present in the case as defined in § 158.172(H)(5).

**VEHICLE.** Any device used for transportation of people or goods over land, air or water surfaces, and/or licensed as a vehicle by the State of Ohio. This term includes without limitation, automobile, truck, trailer, bus, recreational vehicle, motorcycle, farm tractor, boat, airplane or helicopter.

**VEHICLE BODY WORK.** Any activity involving the repair, modification, replacement of, or application of paint or epoxy or similar application to affect modifications to a significant portion of a vehicle and/or repair, removal or replacement of any major exterior body part such as but not limited to a bumper, fender, door panel, glass or windows, or roof.

**VEHICLE, COMMERCIAL.** Vehicles including, but not limited to, step up vans, heavy trucks, semi trailers, truck tractors, tractor trailers, moving vans, delivery trucks, box trucks, dump trucks, tow trucks, wreckers, buses, school buses, cranes, draglines, earthmovers, bulldozers, backhoes, trenchers or similar vehicles. The term also applies to any recreational vehicles converted from a commercial vehicle and any vehicles used as a platform for a hoist,



crane, compressor, tank(s), ladder trucks, or similar equipment or as a means of transporting or storing a commercial vehicle.

**VEHICLE DEALERSHIP.** Any business establishment that sells new or used automobiles, trucks, vans, recreational vehicles, boats or motorcycles or other similar motorized transportation vehicles. A vehicle dealership may also provide on-site facilities for body work, and the repair and service of vehicles sold or leased by the dealership, whether directly or by another automobile dealer.

**VEHICLE, MAJOR DISREPAIR.** Any vehicle which is in such condition so as to require major repair in order to be operated on public streets or waterways. Major repair shall be the same as defined in this section. See **VEHICLE REPAIR, MAJOR.**

**VEHICLE PAINT AND BODY SHOP.** A place where major and minor vehicle repair and body work is performed. Major repair is the same as defined in this section. See **VEHICLE REPAIR, MAJOR AND VEHICLE REPAIR, MINOR.**

**VEHICLE REPAIR, MAJOR.** Heavy mechanical repair services including, but not limited to, internal engine or transmission repair or replacement and body work or painting services.

**VEHICLE REPAIR, MINOR.** Includes repair of the secondary systems within vehicle such as A/C system service, braking system service, fluid maintenance service, scheduled maintenance service, tune-ups, fuel injection system service, cooling system service, and air induction service. Included in these are the replacement of oil and oil filters, fluids, spark plugs, belts, hoses, brakes, tires and tire rotation.

**VEHICLE REPAIR STATION.** A place where, along with minor vehicle repair, gasoline, or any other vehicle engine fuel (stored only in underground tanks), kerosene, or motor oil and lubricants or grease (for operation of motor vehicles) may be retailed directly to the public on the premises, including the sale of minor accessories.

**VEHICLE SERVICE STATION.** A place where gasoline, or any other vehicle engine fuel (stored only in underground tanks), kerosene, or motor oil and lubricants or grease (for operation of motor vehicles) is retailed directly to the public on the premises, including the sale of minor accessories, but not including storage of inoperable vehicles. May include convenience stores.

**WETLANDS.** Those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. United States Army Corps of Engineers (USACE) [33 CFR 328.3(b); 40 CFR 230.3(t)].

**WIND ENERGY CONVERSION SYSTEM.** Any device which converts wind energy to a form of useable energy, including windmills or wind turbines.

**WINERY.** A building or property that produces wine, or a business involved in the production of wine utilizing grapes grown on the premises.

**WINERY, MICRO.** A micro-winery is a small wine producer that does not have its own vineyard, and instead sources its grape product from outside suppliers.

**WIRELESS TELECOMMUNICATION ANTENNA.** Any structure or device used to receive or transmit electromagnetic waves between cellular phones, pagers, commercial mobile services, wireless services and ground-wired telecommunication systems including, but not limited to, directional antennas, such as panels, microwave dishes, satellite dishes less than two meters in diameter and omni-directional antennas, such as whip antennas.

**WIRELESS TELECOMMUNICATION FACILITY.** Any cables, wires, lines, wave guides, antennas, cabinets, switching equipment cabinets and any other equipment or facilities associated with the transmission or reception of telecommunication as authorized by the FCC which a person seeks to locate or have installed upon a tower or antenna support structure. However, the term **WIRELESS TELECOMMUNICATION FACILITIES** shall not include:

- (1) Any satellite dishes two meters in diameter or less.
- (2) Antennas used by amateur radio operators.
- (3) Television receiving antennas.

**WIRELESS TELECOMMUNICATION FACILITY SITE.** A tract, lot or parcel of land that contains the wireless telecommunication tower, antenna, support structures, equipment structures, accessory facilities, parking and any other uses associated with and ancillary to wireless telecommunication transmissions.

**WIRELESS TELECOMMUNICATION SERVICES.** Any personal, public and/or commercial cellular or digital mobile services.

**WIRELESS TELECOMMUNICATION SUPPORT STRUCTURE.** Any building or structure accessory to, but necessary for, the proper functioning of the wireless telecommunication antenna.

**WIRELESS TELECOMMUNICATION TOWER.** Any freestanding structure including a lattice, monopole or guywire tower, used to support a wireless telecommunication antenna.

**WIRELESS TELECOMMUNICATION TOWER HEIGHT.** The height from the base of the structure to its top, including any antenna located thereon.

**WOODLANDS.** Vegetative community comprised of trees and shrubs and ground cover. Woodlands are defined by the predominant tree species in an area.

**WOODLANDS EASEMENT.** A conservation easement that, when required by the city or offered to the city, specifies in a legal form and is so designated on the subdivision record plan or on the approved specific site plan that is acceptable to both the city and the Law Director, and includes the legal description of the boundaries and the activities that are prohibited within the protected woodland easement area. These prohibited activities include actions such as removal of trees, understory vegetation, and ground cover. Also prohibited is any dumping, digging, compaction of soil or any construction. A woodlands easement remains in place until such time as both the city and the property owner agree to remove the easement. With permission from

both the city and the property owner, a limited amount of activities, such as creation of a woodchip pathway or a forest management plan may be approved within the woodlands easement.

***YARDS.*** See ***LOT YARDS.***

(Ord. 09-21, passed 7-27-09; Am. Ord. 10-12, passed 9-13-10; Am. Ord. 12-02, passed 2-13-12; Am. Ord. 14-17, passed 8-25-14; Am. Ord. 15-23, passed 8-24-15; Am. Ord. 16-17, passed 8-22-16; Am. Ord. 17-10, passed 7-24-17; Am. Ord. 18-25, passed 11-26-18; Am. Ord. 20-16, passed 8-10-20)

## EXHIBIT B

### § 158.147 PROHIBITED PERMANENT AND TEMPORARY SIGNS.

All signs not expressly permitted under this section or exempt from regulation under the previous section are prohibited in the city. Such signs include but are not limited to:

(A) *List of prohibited permanent and temporary signs.*

- (1) Abandoned signs.
- (2) Beacons and searchlights except for emergency, health or safety purposes.
- (3) Blinking, flashing or intermittent lighting, except those permitted under electronic copy signs in "B" districts.
- (4) Moving, animated or rotating signs.
- (5) Pennants, streamers, banners, windfeathers, flags not exempt under § 158.146, and similar devices.
- (6) All helium, gas and air balloons located on or anchored to structures, vehicles, the ground, or to anything connected to or on the ground, including skytubes, skydancers, and similar devices.
- (7) Portable signs except as authorized under temporary signs.
- (8) Projecting roof signs.
- (9) Signs attached to any tree, utility pole, fence, bench, trash receptacle and/or enclosure.
- (10) Signs for which a permit has not been issued by the city or which are not exempt under § 158.146.
- (11) Signs attached to or painted on the face of accessory buildings except those attached to automatic teller machines or similar structures.
- (12) Any sign which, by reason of its size, shape, location, content, coloring or manner of illumination:
  - (a) Constitutes a traffic hazard or a detriment to traffic safety by obstructing the vision of drivers or by obstructing or detracting from the visibility of any traffic sign or control device on public streets and roads.
  - (b) May be confused with a traffic-control sign, signal or device or the light of an emergency or road equipment vehicle.

(13) Signs which obstruct free ingress and egress from a required door, window, fire escape, or other required exit way.

(14) Signs or parts thereof which are erected within or above a public right-of-way.

(15) Signs which convey visual information that may be prohibited under the obscenity statutes of the state.

(16) Spinning devices or strings of spinning devices.

(17) Window signs in any district which covers more than 50% of total window area.

(18) Any sign that is attached, painted or placed onto or inside a parked vehicle which is used primarily for commercial advertising is prohibited unless such advertising pertains to the business for which the vehicle is actively and normally used (e.g. delivery or service van/truck) or for the sale or rental of the vehicle itself.

**(19) Billboards and Electronic Variable Message Signs or Digital Billboards.**

(Ord. 09-21, passed 7-27-09; Am. Ord. 12-02, passed 2-13-12; Am. Ord. 16-17, passed 8-22-16)

## EXHIBIT C

### § 158.159 ELECTRONIC VARIABLE MESSAGE SIGNS OR DIGITAL BILLBOARDS.

**Upon the passage of this section, Electronic Variable Message Signs, or Digital Billboards shall not be permitted within the city in any zoning district. Any Electronic Variable Message Signs, or Digital Billboard permitted by the City of Beavercreek prior to the passage of this section shall operate as a nonconforming use of land, pursuant to 158.125 (C).**

~~—(A) *Intent.* To maintain and expand the economic base of the city by helping foster a positive environment for commerce by allowing for a limited number of electronic variable message signs (EVMSs) or digital billboards on commercially or industrially zoned properties within the city.~~

~~—(B) *General Requirements.*~~

~~—(1) *Sign area.* Electronic variable message signs shall have the following maximum square footage:~~

~~—(a) On parcels immediately adjacent to major highway right of way that have four or fewer travel lanes, the sign face shall be no more than 400 square feet on each side, 800 square feet total.~~

~~—(b) On parcels immediately adjacent to major highway right of way that have five to seven travel lanes, the sign face shall be no more than 600 square feet on each side, 1200 square feet total.~~

~~—(c) On parcels immediately adjacent to major highway right of way that have more than seven travel lanes, the sign face shall be no more than 800 square feet on each side, 1600 square feet total.~~

~~—(2) *Location.* Electronic variable message signs must be located on commercially zoned parcels immediately adjacent to major highway right of way.~~

~~—(3) *Spacing.* Electronic variable message signs must be located at least 15,000 feet apart throughout the city and there shall be no more than four in the city at a time.~~

~~—(4) *Multiple message signs.*~~

~~—(a) Electronic messages shall remain in a fixed position for a minimum of eight seconds.~~

~~—(b) The transition time, or time it takes to change the message (electronically) shall be one second or less.~~

~~—(5) *Audio speakers.* Audio speakers shall be prohibited on all off-premise electronic variable message signs.~~

~~—(6) *Brightness.* At no time shall electronic variable message signs cause glare or otherwise impair the vision of the operator of any motor vehicle. Signs shall be equipped with automatic dimming capabilities so that the maximum luminescence level for the sign shall be as follows:~~

~~—(a) For signs with a sign face less than 300 square feet, a maximum luminescence level of 0.3 foot-candles, measured at a distance of 150 feet from the base of the sign.~~

~~—(b) For signs with a sign face between 300 and 400 square feet, a maximum luminescence level of 0.3 foot-candles, measured at a distance of 200 feet from the base of the sign.~~

~~—(c) For signs with a sign face 400 square feet or larger, a maximum luminescence level of 0.3 foot-candles, measured at a distance of 250 feet from the base of the sign.~~

~~—(C) *Non-conforming billboard mitigation.* All applicants who currently have a non-conforming billboard or supporting structure for a billboard on the parcel which the new electronic variable message sign will be located, shall remove any and all billboards, and supporting structures, on that parcel prior to the release of a zoning permit for a new electronic variable message sign, unless the structure is to be reused for the new electronic variable message sign.~~

~~—(D) *Public hearing and approval required.* All electronic variable message signs, including related structures, shall be subject to review and approval by City Council at a public hearing, following which the City Council shall, by motion, approve, approve with supplementary conditions, or disapprove the proposed electronic variable message sign application.~~

~~—(1) *General design practices.* The structure, base and sign face shall be arranged, planned and designed, on the site to produce:~~

~~—(a) Favorable relationships with the existing natural topography, bodies of water or water courses, existing desirable vegetation, exposure to significant views and exposure to sunlight and wind;~~

~~—(b) Safety, convenience and ease of pedestrian and vehicular movement near and around the structure; and~~

~~—(c) An overall positive visual quality of the structure, base and sign face.~~

~~—(d) See Appendix C: DIGITAL BILLBOARD DESIGN GUIDELINES for general material and design guidelines of electronic variable message signs, subject to approval by City Council.~~

~~—(2) *Line-of-sight study.* With the application to City Council, the applicant shall submit a line-of-sight study of the proposed billboard to ensure that it will not be directly visible to any residential properties in the vicinity.~~

~~—(E) *Permit and annual license required.* Prior to the installation of an electronic variable message sign, the owner or their designee shall be required to apply and receive a sign permit as required in § 158.156(A) thru (D).~~

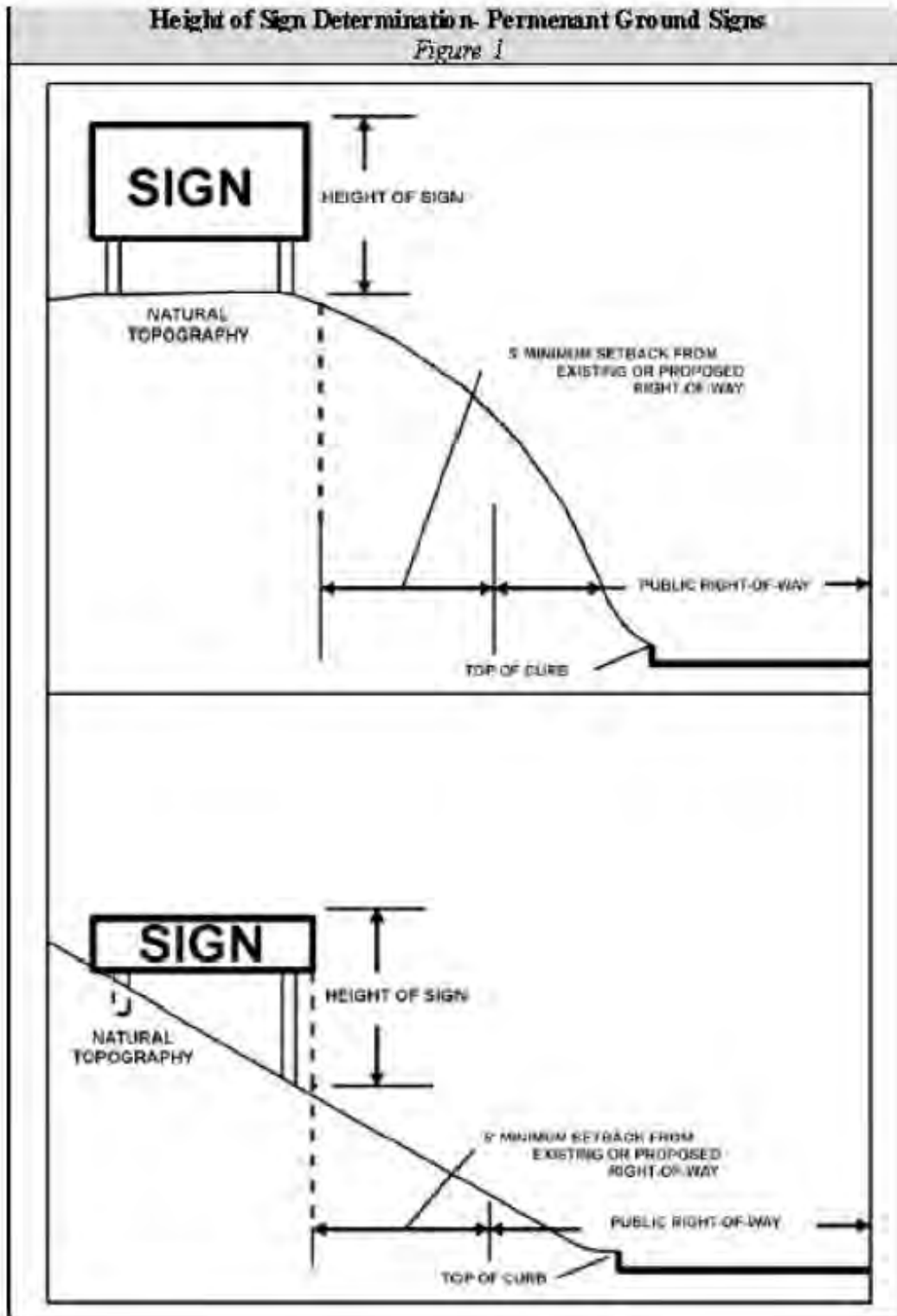
~~—(1) *Annual license.* In addition to the installation permit, the applicant shall apply and receive an annual license, which shall be valid for 12 months after the issue date. The annual license shall be accompanied by a required annual license fee as deemed reasonable and proper by the City Manager in accordance with the fee schedule heretofore approved by the City Manager.~~

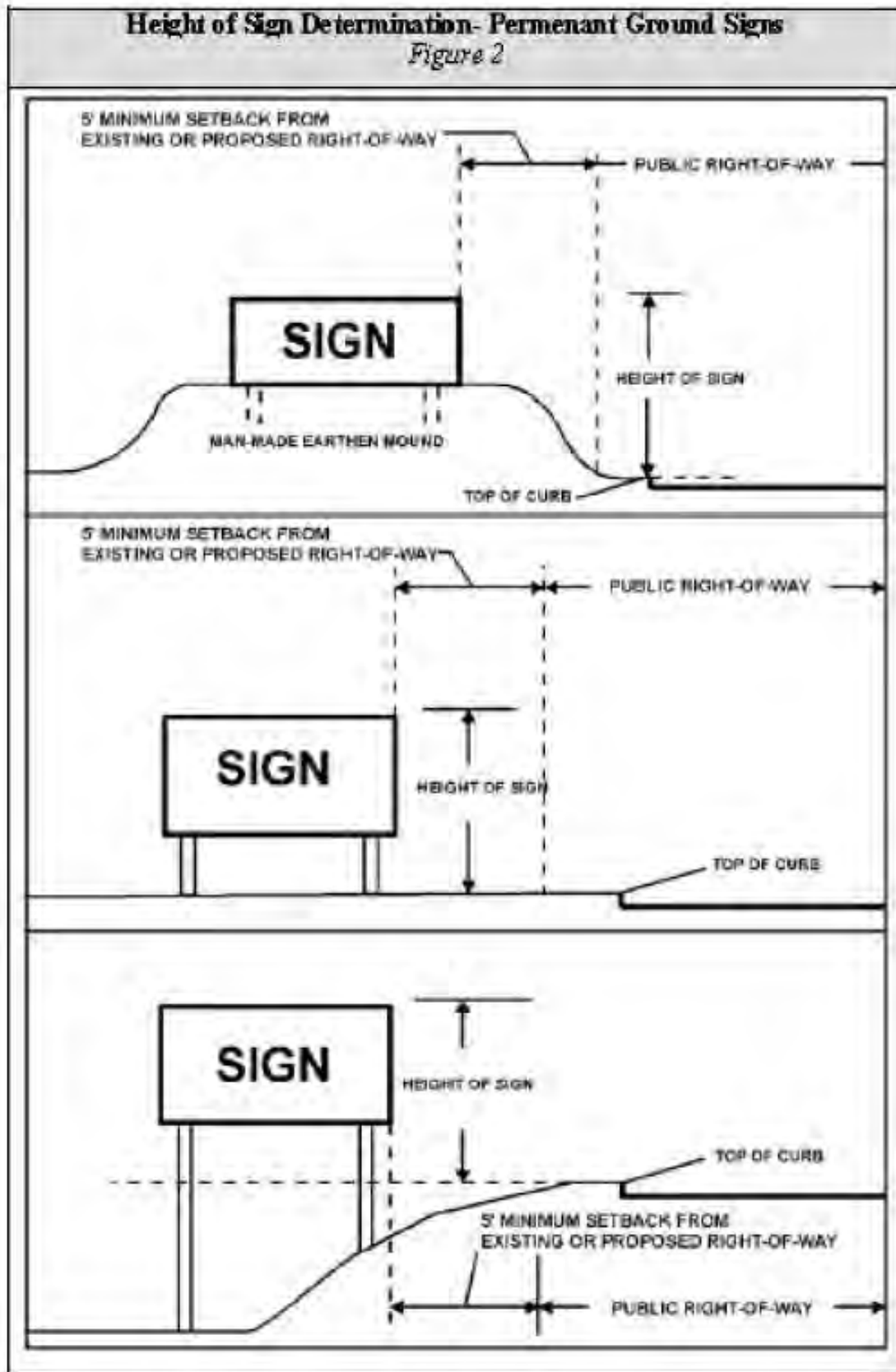
~~—(2) *Failure to renew license.* In the event that the owner or their designated employee fails to apply and receive the annual license, the sign shall be deemed to be in violation of the zoning code and violators shall be subject to the penalty provisions contained in § 158.999 of the Zoning Code. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.~~

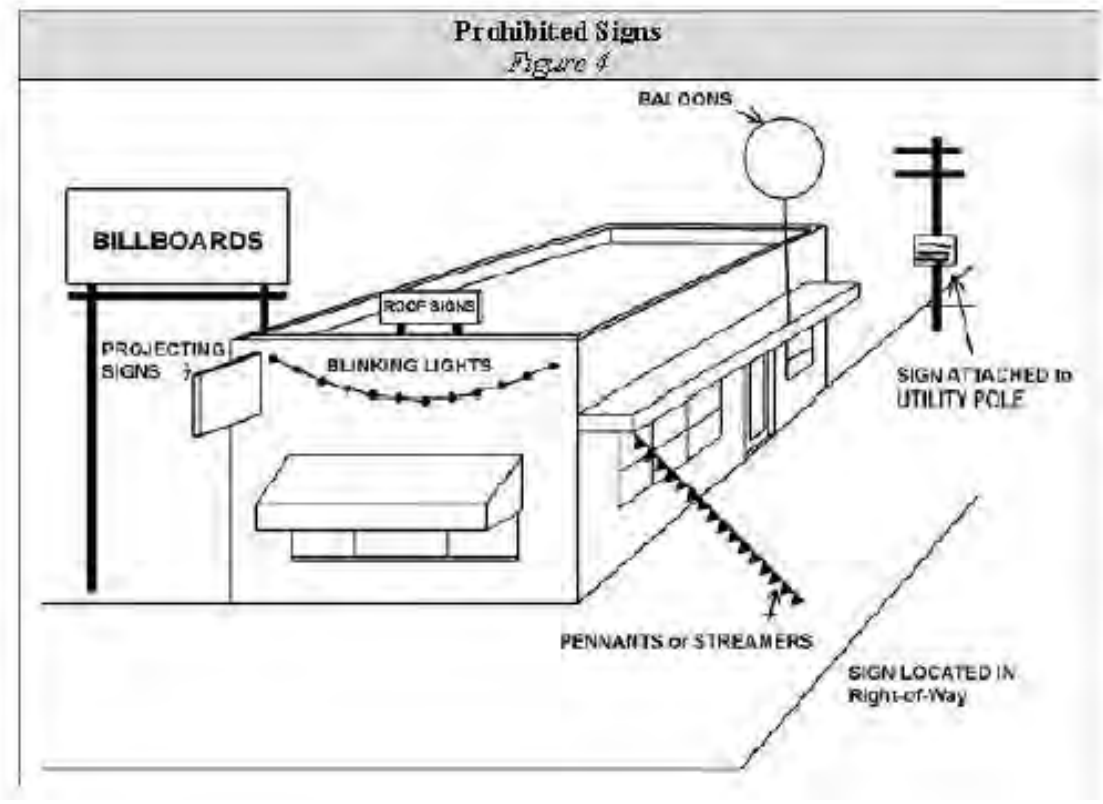
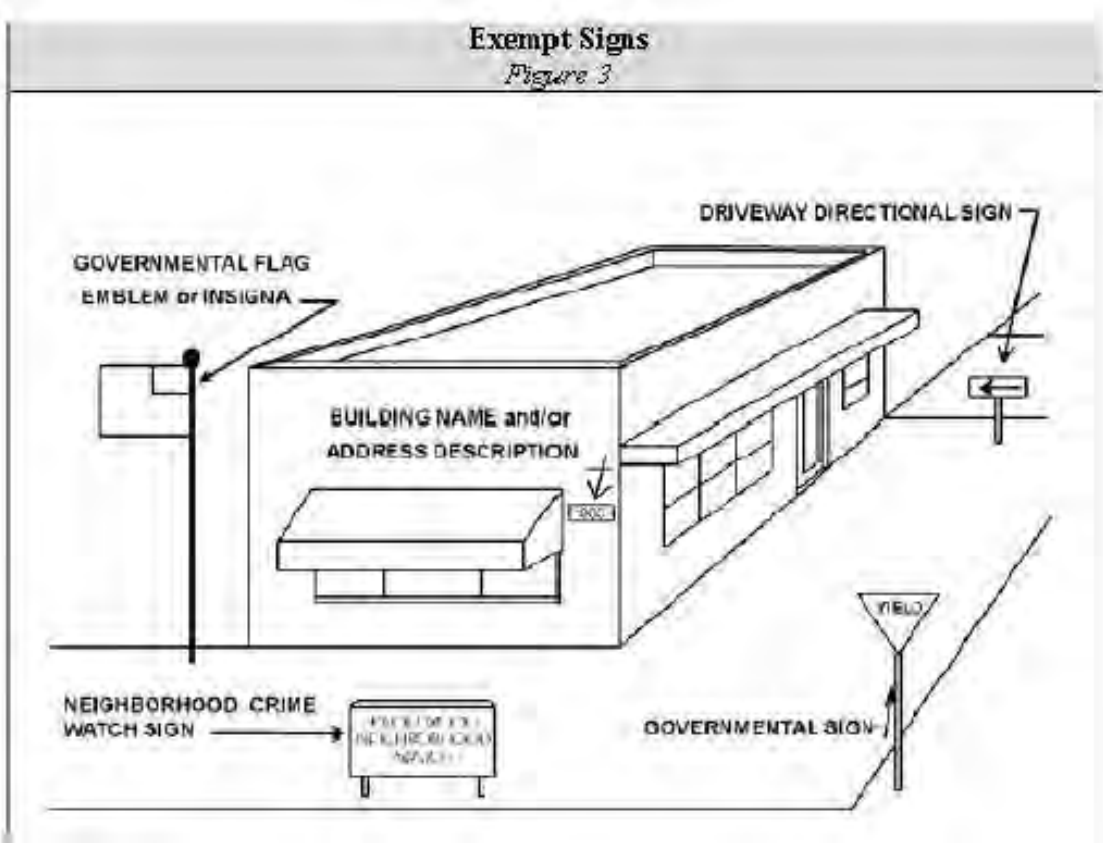
~~—(3) If there is any conflict between this chapter and O.A.C. §§ 5501: 2-2-02 as it may be amended, the state statute shall control.~~  
(Ord. 12-02, passed 2-13-12; Am. Ord. 12-15, passed 8-13-12; Am. Ord. 16-17, passed 8-22-16)

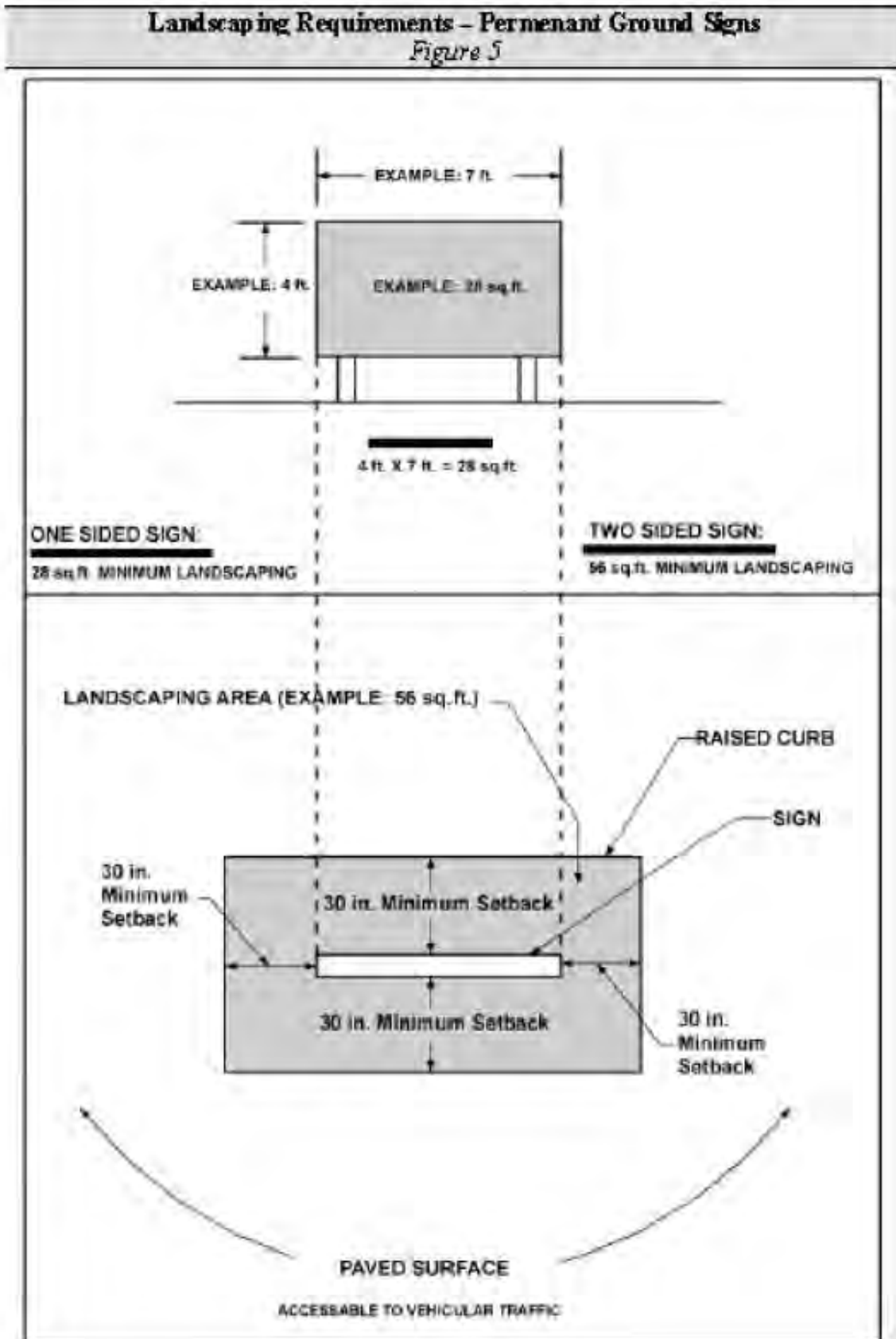


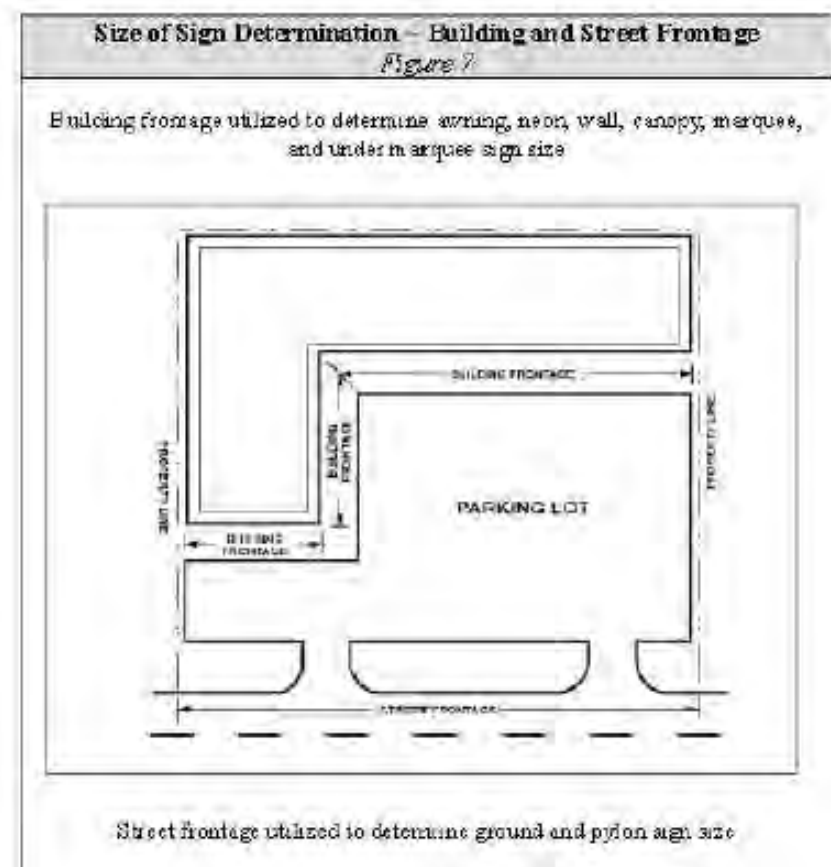
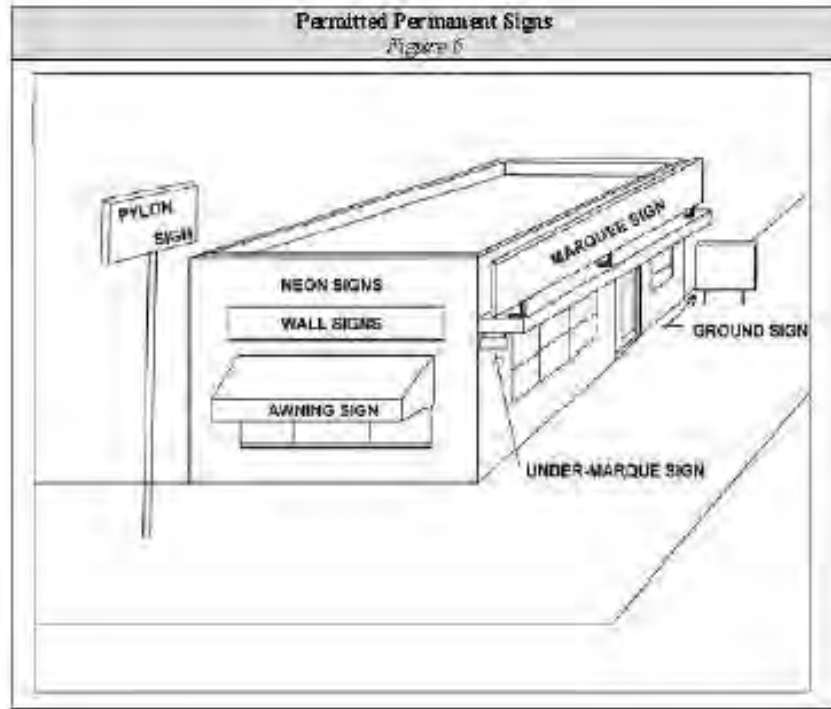
APPENDIX C: SIGN FIGURES AND TABLES











**Permitted Permanent and Temporary Signs Permitted by District**

*Table 1*

	R	R-O	B-1, B-2	B-3, B-4	O-1, RP-1, ORP-1	I-1, I-2	A-1
Permanent ground	X	X	X	X	X	X	X
Permanent awning			X	X	X	X	
Permanent neon			X	X			
Permanent wall		X	X	X	X	X	X
Permanent canopy				X			
Permanent marquee				X			
Permanent under marquee			X	X			
Temporary ground*	X	X	X	X	X	X	X
Major development*			X	X	X	X	

\*See § 158.148 for requirements and restrictions

**Permanent Ground Sign Size, Height and Setbacks**

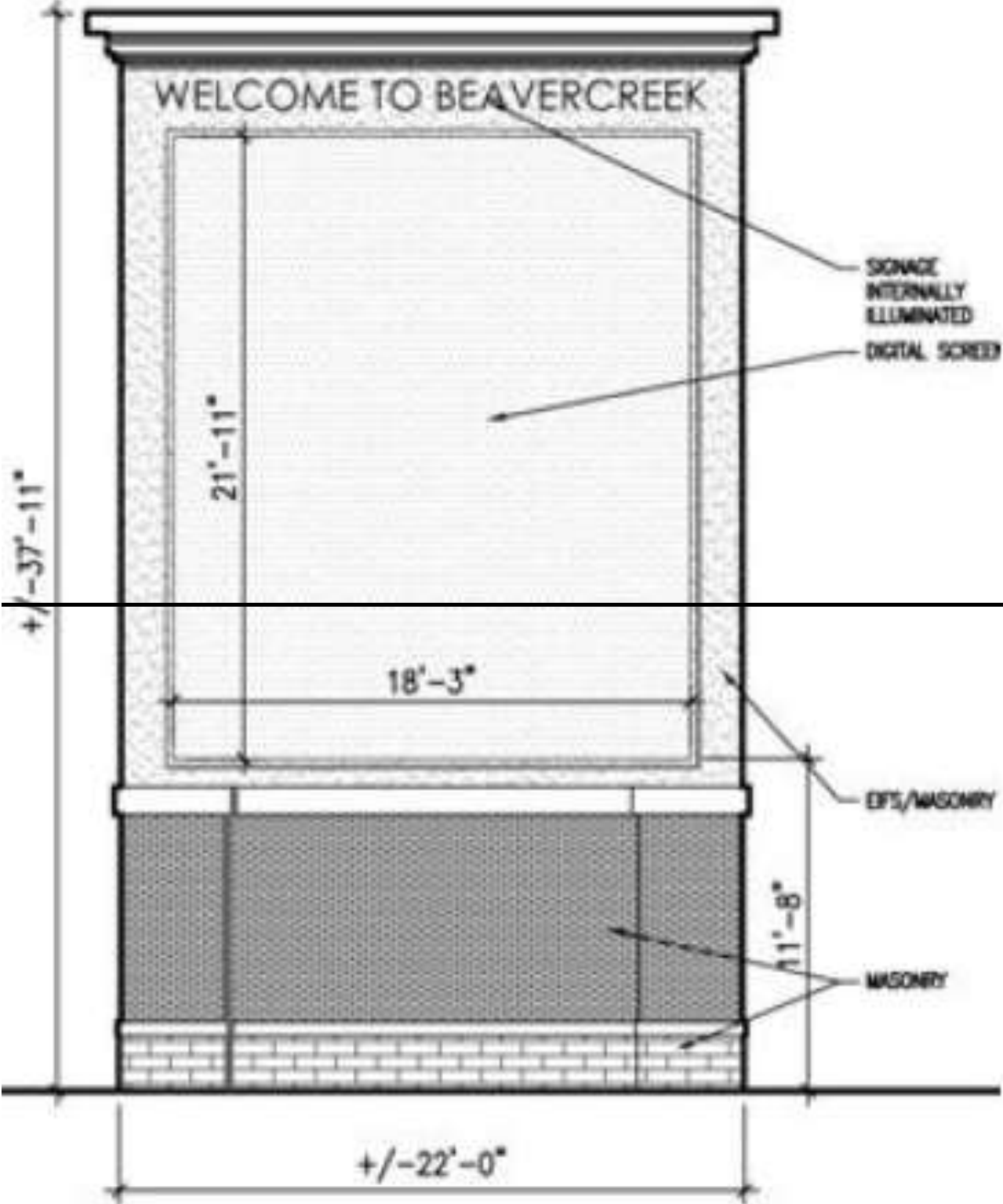
*Table 2*

	<i>Total Sign Face (Sq. Ft.)</i>	<i>Total Sign Area (Sq. Ft.)</i>	Maximum Sign Height (Ft.)	Minimum Sign Setback (Ft.)
R Districts*	15	30	4	5
R-O Districts	15	30	4	5
B-1, B-2 Districts	25	50	5	5
B-3, B-4 Districts	32	64	5	5
O-1, RP-1, ORP-1 Districts	25	50	5	5
I-1, I-2 Districts	50	100	6	5
A-1 Districts	24	48	4	5

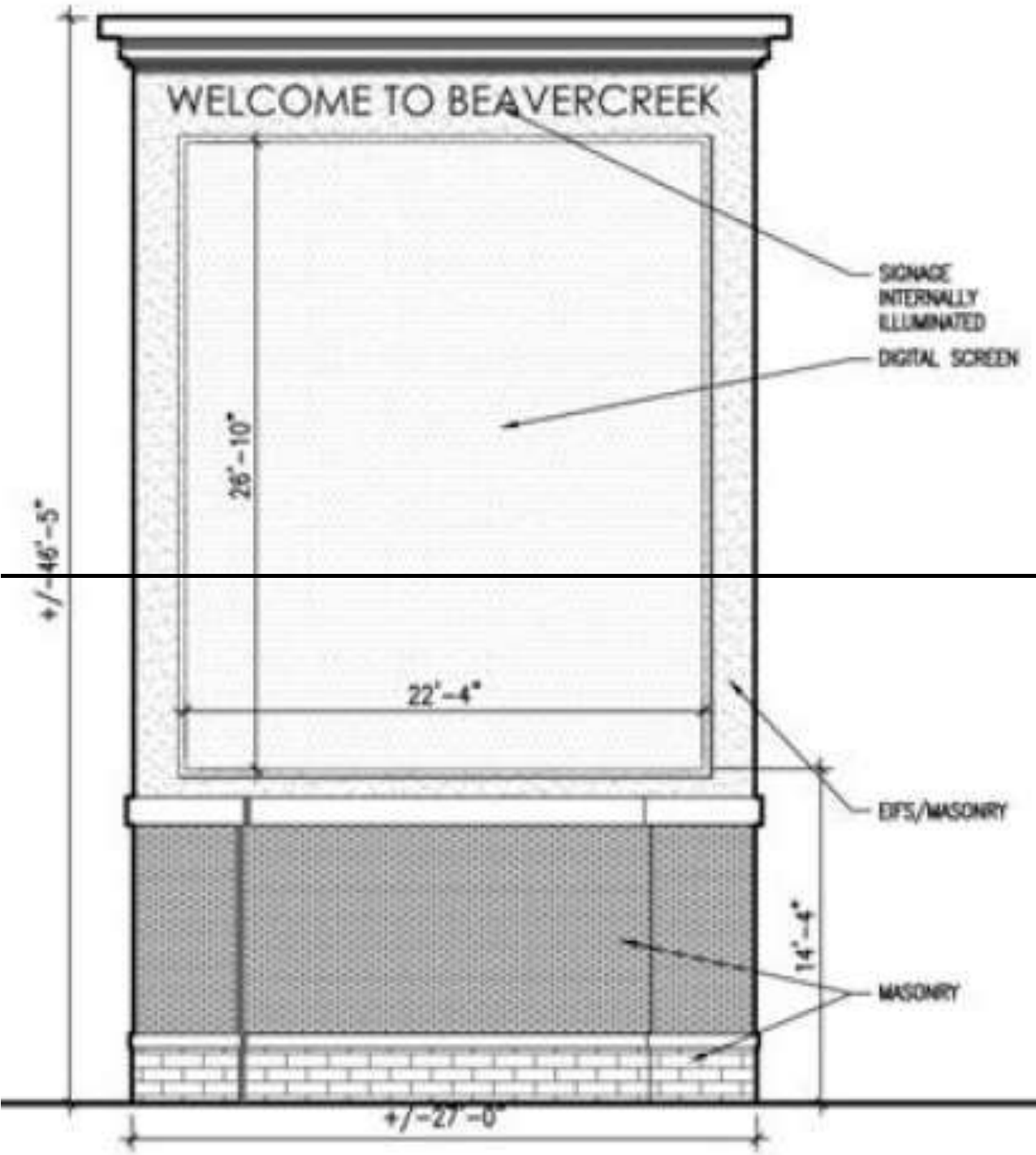
\*Pertains only to signs utilized to identify subdivision, neighborhood, multi-family development complex, or permitted conditional use (See § 158.150)

DIGITAL BILLBOARD DESIGN GUIDELINES

A. 400 square foot off premise electronic variable message sign

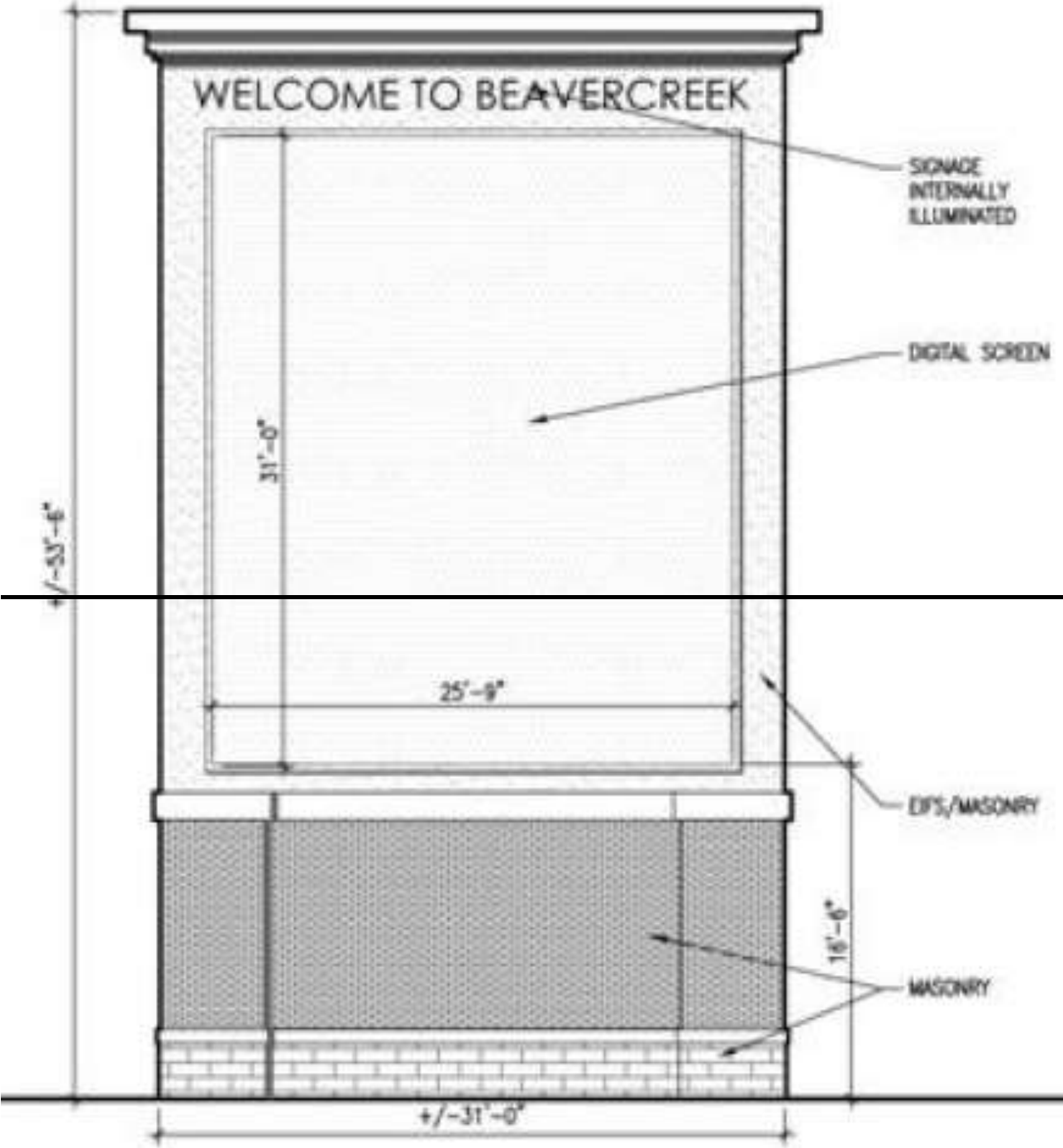


~~B. 600 square foot off-premise electronic variable message sign~~





~~C. 800 square foot off-premise electronic variable message sign~~



RESOLUTION

CITY OF BEAVERCREEK  
PLANNING COMMISSION  
May 3, 2023

RE: PC 23-5 Beaver Creek  
Zoning Code Update

WHEREAS, the City of Beaver Creek Planning Commission has determined it necessary to make certain corrections and additions to the Beaver Creek Zoning Code; and

WHEREAS, public hearing was held on May 3, 2023 by the Beaver Creek Planning Commission at which time all people who wished to testify gave their comments at the public hearing.

NOW, THEREFORE BE IT RESOLVED that the Planning Commission recommends to the Beaver Creek City Council:

SECTION I

The City of Beaver Creek Planning Commission recommends to City Council adoption of the amendment to the Zoning Code as attached in "Exhibit A" dated April 28, 2023.

SECTION II

1. The approved Zoning Code shall be amended as described in "Exhibit A" dated April 28, 2023.

SECTION III

These papers relating to the Zoning Code changes shall be submitted with this resolution to City Council.

The Clerk is directed to transmit the case to City Council for further determination as required by law.

ADOPTED: May 3, 2023

VOTING FOR ADOPTION: Michael Self, Jonathan Meyer, Drew Ayers, Neil Duiker

VOTING AGAINST: None

ABSENT: Nick Loftis

\_\_\_\_\_  
Chairman

Attest:

\_\_\_\_\_

CITY OF BEAVERCREEK  
CITY COUNCIL  
AGENDA ITEM REPORT

Meeting Date: May 8 <sup>th</sup> , 2023	Reference Topic: <i>ORDINANCE No. 23-11</i> TO APPROVE SUPPLEMENTAL APPROPRIATIONS AND CERTIFY ADDITIONAL REVENUE FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2023, AND ENDING DECEMBER 31, 2023, AND TO AMEND ORDINANCES 23-06 AND 22-32.
Agenda Reference No.: VIII-A	

ACTION REQUESTED		
<input checked="" type="checkbox"/> Adopt Ordinance	<input type="checkbox"/> Adopt Resolution	<input type="checkbox"/> Review and Comment
<input type="checkbox"/> No Action Requested	<input checked="" type="checkbox"/> Accept Staff Recommendation	<input type="checkbox"/> Other Motion _____

RESPONSIBLE DEPARTMENT OR AGENCY		
<input checked="" type="checkbox"/> Finance	<input checked="" type="checkbox"/> City Council	<input checked="" type="checkbox"/> Human Resources
<input checked="" type="checkbox"/> Parks, Recreation & Culture	<input checked="" type="checkbox"/> Engineering	<input type="checkbox"/> Golf Course
<input type="checkbox"/> Police	<input type="checkbox"/> Public Service	<input type="checkbox"/> City Manager

**BACKGROUND AND STAFF SUMMARY:**

Police Levy Fund (202)

In November 2022, Police patrol car (#194) was damaged during a training exercise. The vehicle has recently been repaired. The insurance company (Miami Valley Risk Management) was notified of the claim and the actual cost for the repairs were \$14,392. We received the insurance proceeds on April 10, 2023, and the insurance funds were deposited into the Refunds and Reimbursements account (202-497000). The cost of the repairs were paid from our Vehicle Maintenance line item (202-52-2290-3510). Since we do not budget for property damage claims the cost of repairing the vehicle must be appropriated and the insurance proceeds must be certified.

Street Levy Fund (203)

In April, the City received a payment of \$17,414 as part of a class action suit from Monsanto. This was an action due to the use of specific pesticides generally used for controlling weeds and other growth. Since this settlement was not anticipated, the amount needs to be certified. It will be split between the Street Levy Fund and Parks Levy Fund, since these departments used the pesticides most frequently for weed control. Although there is no immediate need for the use of these funds, the amount is recommended to be certified and made available for future related expenses (\$8,707 in Street Fund 203-497000 Refunds and Reimbursements and \$8,707 in the Park Levy Fund 279-497000 Refunds and Reimbursements).

Also, as part of the proposed Sheetz location on Colonel Glenn Highway, a third party traffic study is required. The representatives from Sheetz agreed to reimburse the City for this study. To complete this review, the City will have to appropriate \$2,200 for the study (203-57-1720-3199 Other Professional Services) and certify the reimbursement for this project (203-497000 Refunds and Reimbursements).

Park Levy Fund (279)

In 2022, Senior Center staff applied for a Greene County Area on Aging grant for \$5,000 to purchase operating and capital equipment for the Center. The grant has been awarded and the Senior Center would like to procure the requested items. These include; several pieces of equipment for the fitness center including a Smith Machine (barbell stand) and associated bumper plates (weights) (\$2,000), five new tables for the class rooms (\$1,100), medical grade steps for transportation vehicles (\$1,000)

and miscellaneous equipment which includes storage racks, printer, and cornhole set (\$1,000). The grant fund proceed were budgeted, however the expenditures were not identified before the budget was complete. Therefore, the City needs to appropriate these funds which total \$5,100 (279-54-3852-2499 Misc., Operating Supplies).

COMMITTED PARK MONIES (712)

When purchasing the second parcel of park land (now known as Spring House Park), the City had applied for grant funding from the Land and Water Conservation Fund (LWCF) through the Ohio Department of Natural Resources to receive 50% of the parcel cost. This transaction was expected to be completed in 2022. Since the grant proceeds were not received until May 2023 and the grant funding was not carried forward and rebudgeted in 2023, the City must certify this revenue. Therefore, the \$235,000 in grant funding must be certified in the Committed Park Monies fund (712-432320 Grants).

Also, if you recall, the General Fund provided an advance to provide the funding to purchase this land. Now that the grant proceeds have been received, the proceeds can be applied to the outstanding advance balance. Again, since this was expected to be completed in 2022, and the advance was not reappropriated in the 2023 budget, the City needs to appropriate the \$235,000 to the General Fund (712-60-7400-7400 Advance Out).

General Fund (101)

As noted above, with the park land purchased and the grant proceeds received, the Committed Parks fund can transfer the funds back to the General Fund. Therefore, \$235,000 must be certified to the General fund to reimburse the advance made to the Committed Park Fund (101-498100 Advance In).

STAFF RECOMMENDATION: Staff recommends adoption of Ordinance 23-11

CITY OF BEAVERCREEK, OHIO  
ORDINANCE NO. 23-11

SPONSORED BY COUNCIL MEMBER \_\_\_\_\_ ON THE 8th DAY OF MAY, 2023.

TO APPROVE SUPPLEMENTAL APPROPRIATIONS AND CERTIFY ADDITIONAL REVENUE FOR FISCAL YEAR BEGINNING JANUARY 1, 2023, AND ENDING DECEMBER 31, 2023, AND TO AMEND ORDINANCES 23-06 AND 22-32.

WHEREAS, the annual appropriations for 2023 was authorized in Ordinance 22-32, it is now the desire to supplement and amend these appropriations and certify additional revenue, and

NOW, THEREFORE, THE CITY OF BEAVERCREEK HEREBY ORDAINS:

SECTION I.

That to provide for current expenses and other expenditures of the City of Beavercreek during said fiscal year ending December 31, 2023, the following amounts appropriated in Ordinance 23-06 and 22-32, are hereby amended and the recertification of additional revenue, while preserving all other appropriations as previously approved.

REVENUE FUND (FUND #)	INCREASE REVENUE CERTIFICATIONS
GENERAL FUND (101)	\$ 235,000
POLICE LEVY FUND (202)	\$ 14,392
STREET LEVY FUND (203)	\$ 10,907
PARK LEVY FUND (279)	\$ 8,707
COMMITTED PARK FUND (712)	\$ 235,000
TOTAL:	\$ 504,006

EXPENSE FUND (FUND #)	INCREASE/DECREASE APPROPRIATIONS
POLICE LEVY FUND (202)	\$ 14,392
STREET LEVY FUND (203)	\$ 2,200
PARK LEVY FUND (279)	\$ 5,100
COMMITTED PARK FUND (712)	\$ 235,000
TOTAL:	\$ 256,692

SECTION II.

In order to conform to the amendments detailed in Section I with the schedule of 2023 annual appropriations previously approved, the Financial Administrative Services Director is hereby directed to prepare and certify a restatement of annual appropriations reflecting all approved appropriations and certify the above noted revenue.

SECTION III.

It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that any and all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including, but not limited to, Section 121.22 of the Ohio Revised Code.

SECTION IV.

This supplement to the Annual Appropriation Ordinance shall take effect upon adoption, in accordance with Sections 10.04 and 10.10 of the Beaver Creek City Charter.

PASSED this 8th day of May, 2023.

\_\_\_\_\_  
BOB STONE, MAYOR

ATTEST:

\_\_\_\_\_  
DEBBIE HAINES, CLERK OF COUNCIL

ORD 23-11

SUMMARY

An Ordinance to approve supplemental appropriations and certify additional revenue for the Fiscal Year ending December 31, 2023.

This is a supplement to the Annual Appropriation Ordinance and in accordance with Sections 10.04 and 10.10 of the Beaver Creek City Charter will become effective immediately upon its passage.

CITY OF BEAVERCREEK  
CITY COUNCIL  
AGENDA ITEM REPORT

Meeting Date: May 8, 2023  Agenda Reference No: VIII.B.	Reference Topic: Transfer of a liquor permit from Amber Oaks Operations Group, LLC in Sheffield Lake, Ohio to TP Dayton, LLC in Beavercreek, Ohio.  Resolution 23-28
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ACTION REQUESTED		
<input type="checkbox"/> Adopt Ordinance	<input checked="" type="checkbox"/> Adopt Resolution	<input type="checkbox"/> Review and Comment
<input type="checkbox"/> No Action Requested	<input type="checkbox"/> Accept Staff Recommendation	<input type="checkbox"/> Other

RESPONSIBLE DEPARTMENT OR AGENCY		
<input type="checkbox"/> Finance	<input type="checkbox"/> City Council	<input type="checkbox"/> Law
<input type="checkbox"/> Parks & Recreation	<input type="checkbox"/> Engineering	<input type="checkbox"/> Planning & Zoning
<input checked="" type="checkbox"/> Police	<input type="checkbox"/> Public Service	<input type="checkbox"/> City Manager
<input type="checkbox"/> Clerk of Council	<input type="checkbox"/> Human Resources	<input type="checkbox"/> Other

**BACKGROUND AND STAFF SUMMARY:**

The Ohio Department of Commerce, Division of Liquor Control sent notification of a request regarding the transfer of a Class D-5 liquor permit from Amber Oaks Operations Group, LLC located at 4798 E. Lake Road, Sheffield Lake, Ohio to TP Dayton, LLC located at 2661 Fairfield Commons, Beavercreek, Ohio 45432. This transfer is an economic development transfer (TREX) as noted by the Division of Liquor Control and the supporting documents.

Ohio revised code 4303.29 states that a liquor permit may be transferred to a different owner at a different location in a different municipal corporation. This same ORC section states that the transfer of ownership and location of the permit may occur if the municipal corporation acknowledges, in writing to the Division of Liquor Control, that the transfer will be for an economic development project.

**STAFF RECOMMENDATION:**

Staff is recommending this request move forward giving the City Manager the authority to acknowledge the proposed Liquor Permit be transferred as detailed in the resolution.

**RESOLUTION NO. 23-28**

**CITY OF BEAVERCREEK**

**SPONSORED BY COUNCIL MEMBER \_\_\_\_\_ ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2023.**

**A RESOLUTION AUTHORIZING CITY MANAGER TO SIGN A LETTER ON BEHALF OF THE CITY OF BEAVERCREEK STATING THAT CITY COUNCIL DOES NOT OPPOSE THE TRANSFER OF THE PROPOSED LIQUOR LICENSE FROM AMBER OAKS OPERATING GROUP, LLC TO TP DAYTON, LLC.**

**WHEREAS**, Amber Oaks Operations Group, LLC is a corporation authorized to do business in the State of Ohio with its place of business at 4798 E. Lake Road, Sheffield Lake, Ohio; and

**WHEREAS**, TP Dayton, LLC is a limited liability company authorized to do business in the State of Ohio with its place of business located at 2661 Fairfield Commons, Beavercreek, Ohio 45432; and

**WHEREAS**, Amber Oaks Operations Group, LLC is the holder of a Class D-5 liquor permit (Permit No. 0156550); and

**WHEREAS**, Amber Oaks Operations Group, LLC wishes to transfer its Class D-5 liquor permit to TP Dayton, LLC and TP Dayton, LLC is willing to accept said transfer; and

**WHEREAS**, Section 4303.29 of the Ohio Revised Code provides that a permit may be transferred to a different owner at a different location in a different city, as long as the new location meets the economic development project criteria set forth in division (B)(2)(b)(ii) of Section 4303.29; and

**WHEREAS**, Section 4303.29 further provides that the transfer of ownership and location of the permit may occur if the municipal corporation acknowledges in writing to the Division of Liquor Control, at the time the application for the transfer of ownership and location of the permit is filed, that the transfer will be to an economic development project; and

**WHEREAS**, if authorized by Council, the City Manager will sign a letter on behalf of the City of Beavercreek acknowledging that the transfer will be to an economic development project.



**NOW, THEREFORE, THE CITY OF BEAVERCREEK HEREBY RESOLVES:**

**SECTION I.**

City Council hereby authorizes the City Manager to sign a letter addressed to the Ohio Department of Commerce Division of Liquor acknowledging that the proposed transfer of Amber Oaks Operations Group, LLC's Class D-5 liquor permit to TP Dayton, LLC will be to an economic development project.

**SECTION II.**

It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that any and all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including, but not limited to Section 121.22 of the Ohio Revised Code.

**SECTION III.**

This Resolution shall take effect from and after the earliest date allowed by law.

PASSED this \_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CLERK OF BEAVERCREEK COUNCIL

PREPARED BY: CITY ATTORNEY

**SUMMARY**

**THIS RESOLUTION AUTHORIZES THE CITY MANAGER TO SIGN A LETTER ADDRESSED TO THE OHIO DEPARTMENT OF COMMERCE DIVISION OF LIQUOR CONTROL ACKNOWLEDGING THAT THE TRANSFER OF AMBER OAKS OPERATIONS GROUP, LLC'S LIQUOR PERMIT TO TP DAYTON, LLC WILL BE TO AN ECONOMIC DEVELOPMENT PROJECT.**

May \_\_\_\_\_, 2023

Ohio Department of Commerce  
Division of Liquor Control  
ATTN: Jim Cenepa, Superintendent  
6606 Tussing Rd.  
Reynoldsburg, OH 43068-9005

RE: Letter of Endorsement for TREX Transfer to TP Dayton, LLC *dba* Twin Peaks  
2661 Fairfield Commons  
Beavercreek, Ohio 45432

Dear Mr. Canepa:

The City of Beavercreek has considered the request of TP Dayton, LLC *dba* Twin Peaks for the City's consent to a TREX transfer of a D-5 liquor permit to the premises located at 2661 Fairfield Commons, Beavercreek, Ohio 45432. Upon said consideration, the City of Beavercreek has no opposition to the TREX transfer to TP Dayton, LLC *dba* Twin Peaks at 2661 Fairfield Commons, Beavercreek, Ohio 45432 for an economic development project.

Sincerely,

---

Pete Landrum  
City Manager  
City of Beavercreek, Ohio

**GUTENTAG LAW, LTD.**

22 EAST GAY STREET  
SUITE 201  
COLUMBUS, OHIO 43215-3175

From the Desk of:  
Mark S. Gutentag

Telephone (614) 365-1700  
Facsimile (614) 221-2768  
mark@gutentaglaw.com

April 25, 2023

Via E-mail Only (mchugh@coollaw.com)

Mr. Stephen M. McHugh, Esq.  
City of Beavercreek, Ohio, Law Director  
Coolidge Wall Co., LPA  
33 West First Street, Suite 200  
Dayton, OH 45402

Re: Liquor Permit Trex Application:  
TP Dayton, LLC dba/*Twin Peaks*  
2661 Fairfield Commons, Beavercreek, OH 45432

Dear Attorney McHugh:

I write as a follow up to our discussion regarding the request for the City of Beavercreek's endorsement to transfer a D-5 liquor permit to the City of Beavercreek in Economic Development Project for TP Dayton, LLC dba/*Twin Peaks* originally sent to Captain Sumner. (Copy Attached) When the owners of TP Dayton, LLC initiated their due diligence for this Two Million Dollar project, they were led to believe, by several sources, that the restaurants location was within the Mall at Fairfield Commons Community Entertainment District ("CED") and that there was a D-5J full service permit available for the location. This was not the only factor considered for choosing to invest Two Million Dollars into the project in the City of Beavercreek but, it was significant. The project was initiated and the application for the CED D-5J was filed with the Division of Liquor Control. Once filed with the Division, a volley of emails ensued regarding whether the location was inside or outside the CED. The Division's final determined was the location is outside the CED thus, there would be no D-5J issued to the location. As time was of the essence and the project was in full swing with deadlines to meet, the Division offered to convert the application to a D-5I application and transfer the Divisions "application processing file" from the D-5J application to the D-5I application. TP Dayton had no choice but to accept this offer as starting a new D-5 liquor permit application, let alone a D-5 Trex application (as there were no D-5 or comparable permits available in the City of Beavercreek quota), would delay the project, the scheduled training events and opening at an enormous cost.

The current request to Trex transfer a D-5 permit to this location to replace the current D-5I permit is delayed based on the forgoing but necessary. The basis for this request is that the D-5I requires specific point of sale system and accounting processes which are not compatible with the company's current point of sale system and the accounting practices utilized by the company's home office or its other *Twin Peaks* locations. The D-5 permit and the D-5J permit are compliant with the company's current point of sale system and the accounting practices. This

transfer will allow the company to conduct its bookkeeping and tax reporting in a manner consistent with its home office and other locations as an Ohio Master Permit Holder.

Had time been available and had TP Dayton been informed earlier that the D-5J was not available to this location, TP Dayton would have moved forward with a search for an appropriate D-5 permit and filed an application to Trex a D-5 permit in this Two Million Dollar economic development project.

Based on the foregoing, TP Dayton, LLC respectfully requests the City of Beavercreek consider this request for the endorsement of a Trex D-5 permit as an economic development project based on TP Dayton, LLC's Two Million Dollar investment, its 70 or so tax paying employees staff members and the new tax dollars it generates and pays on a monthly and annual basis.

The owners of TP Dayton, LLC dba/*Twin Peaks* and I are happy to discuss this request further and answer any questions you or Council may have.

Thank you.

Respectfully,

*/s/ Mark S. Gutentag*

Mark S. Gutentag

MSG/bhs

CITY COUNCIL  
Work Session, Monday, May 15, 2023 5:00 p.m.  
Council Chambers

- I. CALL TO ORDER
- II. ROLL CALL
- III. APPROVAL OF AGENDA
  
- IV. DISCUSSION ITEMS
  - A. Spring House Park
  - B. Zoning Code Updates
  - C. Short Term Rentals
  
- V. COUNCIL COMMITTEE/EVENT UPDATES
- VI. ADJOURNMENT

DRAFT

CITY COUNCIL  
Regular Meeting - Monday, May 22, 2023 6:00 p.m.  
Council Chambers

- ◆ PROCLAMATION - National Scleroderma Awareness Month
  
- I. CALL TO ORDER
- II. ROLL CALL
- III. PLEDGE AND PRAYER/MOMENT OF SILENCE - Council Member Adams
- IV. APPROVAL OF AGENDA
- V. APPROVAL OF MINUTES
  
- VI. PRESCHEDULED SPEAKER - Dr. Geri Lynn Strobes - Blue Star Families  
PRESCHEDULED SPEAKER - Spring House Park Master Plan
  
- VII. ORDINANCES, RESOLUTIONS AND PUDS
  - A. Ordinance 23-10 Zoning Code Changes (Second Reading)
  - B. Ordinance 23-12 Street Permit Update (1<sup>st</sup> Reading)
  - C. Ordinance 23-13 Easement to Greene County through Rotary Park (1<sup>st</sup> Reading)
  - D. Resolution 23-26 Police Dept Vest Grant
  - E. Resolution 23-27 Spring House Park Master Plan
  
- VIII. COUNCIL TIME
- IX. MAYOR'S REPORT
- X. CITY MANAGER'S REPORT
- XI. CITIZEN COMMENTS
- XII. ADJOURNMENT