



CITY COUNCIL
Regular Meeting – July 27, 2020 6:00 p.m.
Council Chambers

1368 Research Park Dr
Beavercreek, Ohio

This meeting will be held in the Council Chamber. Social distancing will be observed and it is asked that anyone wishing to attend the meeting in person to please wear a face mask.

Public Comments:

All persons present shall be given an opportunity to be heard on proposed legislation during a public hearing. Citizen Comments is also an opportunity to be heard regarding any topic. For those not wishing to appear in person but wish to make a public comment, please feel free to send an email to the Clerk of Council at: miscisin@beavercreekohio.gov or call (937) 320-7388. Comments must be received by 4:00 p.m., Monday, July 27, 2020 to be considered for the meeting. Please be very specific on which legislation you are addressing or if your comment is to be heard during the Citizen Comment section of the meeting. Thank you.

- I. CALL TO ORDER
- II. ROLL CALL
- III. PLEDGE AND PRAYER/MOMENT OF SILENCE – Council Member Curran
- IV. APPROVAL OF AGENDA
- V. APPROVAL OF MINUTES
 - A. July 13, 2020 Regular Meeting Minutes
- VI. PRESCHEDULED PRESENTERS
 - A. 2019 Audit Review, Kevin Vaughn, Plattenburg & Associates
- VII. PUBLIC HEARING – PC 20-3 Land Use Plan Update
 - A. Staff Input
 - B. Public Input
 - C. Council Input
 - D. Ordinance 20-15 (First Reading)
- VIII. PUBLIC HEARING – PC 20-04 Zoning Code Update
 - A. Staff Input
 - B. Public Input
 - C. Council Input
 - D. Ordinance 20-16 (First Reading)
- IX. PUBLIC HEARING – 2021 Tax Budget
 - A. Staff Input
 - B. Public Input
 - C. Council Input
 - D. Resolution 20-16
- X. ORDINANCES, RESOLUTIONS AND PUDS
 - A. Ordinance 20-17 Street Vacation – Rock Drive (Emergency)
 - B. Resolution 20-17 1% Income Tax Submission to the Electors
 - C. Resolution 20-18 Greene County CARES Act Agreement
- XI. DECISION ITEMS
 - A. Acceptance of Second Quarter Financial Summary
- XII. COUNCIL TIME
- XIII. MAYOR'S REPORT
- XIV. CITY MANAGER'S REPORT
- XV. CITIZEN COMMENTS
- XVI. ADJOURNMENT

BEAVERCREEK CITY COUNCIL
REGULAR MEETING July 13, 2020 6:00 p.m.

CITIZEN OF MERIT AWARDS

- ◆ 2020 Graduating Beavercreek Youth Council Members

CALL TO ORDER

Mayor Stone called the meeting to order followed by roll call

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

ABSENT: None

ALSO IN ATTENDANCE: Jeff Fiorita, Deputy Chief; Theresa Hathaway, Assistant Finance Director; Bill Kucera, Financial Administrative Services Director; Pete Landrum, City Manager; Steve McHugh, Legal Counsel; Dianne Miscisin, Clerk of Council; Sandra Pereira, City Planner; Mike Thonnerieux, Public Administrative Services Director

PLEDGE

Council Member Bales led the pledge and a moment of silence.

APPROVAL OF AGENDA

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

APPROVAL OF MINUTES

Council Member Garcia MOVED to approve the June 8, 2020 Regular Meeting Minutes, seconded by Council Member Schwartz. Motion PASSED by majority voice vote.

Council Member Garcia MOVED to approve the June 22, 2020 Regular Meeting Minutes, seconded by Vice Mayor Adams. Motion PASSED by majority voice vote. (Abstained: Council Member Bales)

ORDINANCES, RESOLUTIONS AND PUDS

Ordinance 20-12 Establishing New Revenue Fund and Eliminate One Special Revenue Fund in Conformity with Generally Accepted Accounting Principles (Second Reading)

Clerk Miscisin read an Ordinance to establish one new special revenue fund and to eliminate one special revenue fund in conformity with generally accepted accounting principles.

July 13, 2020

Council Member Garcia MOVED to approve Ordinance 20-12, seconded by Council Member Schwartz. Motion PASSED by majority voice vote.

Ordinance 20-14 Additional Appropriations (Single Reading)

Clerk Miscisin read an Ordinance to approve supplemental appropriations and certify additional revenue for the fiscal year beginning January 1, 2020 and ending December 31, 2020 and to amend Ordinances 19-30, 20-06 and 20-07.

Ms. Hathaway said there were four budgetary items for Council's consideration. She said based on HB 481 Greene County distributed to the city \$557,475 as part of the federal CARES Act. These funds are to be used to cover specific expenses related to COVID-19 incurred between March 1 and December 30, 2020. She said certification of revenue and appropriations for eligible expenses in the amount of \$557,475 needed to be approved for the CARES Act grant. She said in 2019 the Senior Center was awarded a grant in the amount of \$40,000 by the Greene County Council on Aging to help offset the cost of purchasing a new paratransit van. She said the grant for the van and the associated expenses to purchase the van were budgeted in the Miscellaneous Trust Fund, however the check received from Greene County Council on Aging was inadvertently deposited to the Parks Fund instead of the Miscellaneous Trust Fund. She explained in order to correct the error, an appropriation in the amount of \$40,000 needed to be adopted for the Parks Fund so that the grant funds could be allocated to the Miscellaneous Trust Fund. The third item was regarding a donation made to the Regional Emergency Response Team Fund (RERT). A volunteer medic for RERT, Greg Staten, made a \$7,000 donation to be used to support the overall mission of the team. The RERT commander would like to use the donation to provide advanced training for team members. She said \$7,000 needed to be certified in Donations and an additional appropriations approved in the amount of \$7,000 for training. She said there was currently \$2,000 budgeted in the General Fund for a new columbarium to be built at Mt. Zion Cemetery. She said it was determined that funds in the Cemetery Bequest Fund could be used for capital improvements at the city cemeteries. She said it was determined that half of the columbarium project equaling \$100,000 be paid from the Cemetery Bequest Fund in order to reduce General Fund expenditures. She said they were requesting \$100,000 be appropriated in the Cemetery Bequest Fund for capital improvements and to reduce appropriations by \$100,000 in the General Fund.

There being no input, public input was closed.

Council Member Curran MOVED to approve Ordinance 20-14, seconded by Council Member Schwartz. Motion PASSED by roll call vote of 7-0.

July 13, 2020

COUNCIL TIME

Council Member Garcia congratulated the graduates of the Beaver Creek Youth Council and thanked them for the volunteer work. She said she was proud of the local businesses and keeping everybody safe.

Council Member Schwartz congratulated the six seniors of the Beaver Creek Youth Council who are very involved with the community. She thanked the sponsors of the 4th of July event. She encouraged everyone to get out and shop the local businesses.

Council Member Curran congratulated the Youth Council seniors. He encouraged everyone to get out and support the local retail establishments.

Council Member Duerr congratulate the Beaver Creek Youth Council. He has visited many of the parks and encouraged everyone to visit them as well. He thanked the sponsors of the Fourth of July fireworks.

Council Member Bales thanked everyone who contributed to the fireworks and the mall for allowing them to take place at their location. He welcomed Condado's to the community. He was proud of Greene County being reduced to level 1 regarding COVID-19. He encouraged everyone to get out to the parks.

Vice Mayor Adams said he has worked with the Youth Council for many years. He congratulated the graduates. He said the fireworks were very successful. He asked everyone to support the Beaver Creek local businesses. He said Greene County continues to be at level 1 as of this afternoon.

MAYOR'S REPORT

Mayor Stone thanked staff, the mall and sponsors of the Fourth of July event. He said he has received multiple calls regarding the wearing of masks. He said there are multiple sources and is hard to understand. He said social distancing is number one. He said face covering has gone up in the grocery stores. He asked everyone to be smart and be safe. He complimented the Greene County Health Director who has been very knowledgeable and accessible. He said the initiative needs to come from the director.

CITY MANAGER'S REPORT

Mr. Landrum thanked the parks staff and Fourth of July committee for their coordination of the event. He reviewed promotions within the police department. He also discussed the Kemp Road Widening project along with 2020 Annual Resurfacing and Curb Replacement project.

July 13, 2020

CITIZEN COMMENTS

Eric Zahn, 2654 Solitaire Lane, Beavercreek, Ohio

Mr. Zahn said headlines across the U.S. are showing a housing apocalypse or an eviction apocalypse. He said in New York City alone 25% of the citizens have not been able to pay their rent since March and as of July 1st 30% of America was not able to pay their rent. He asked what the city was doing to address the fact that people aren't able to pay their rent. He said with the pandemic it would be unconscionable to throw them out on the street or out of their home and potentially be exposed to the virus. Mayor Stone said this was not an interacting time of the meeting but asked Mr. McHugh to address this. Mayor Stone said this would be more of a court issue. Mr. McHugh agreed and stated there was a CARES Act provision and congress is considering extending the provisions possibly until March 2021 to hold off evictions.

Mayor Stone said this type of situation was handled by the Greene County courts and not something in their jurisdiction.

There being no further comments, Citizen Comments was closed.

ADJOURNMENT

Council Member Curran MOVED to adjourn the meeting at 6:37 p.m., seconded by Council Member Schwartz. Motion PASSED by majority voice vote.

Bob Stone, Mayor

ATTEST:

Dianne Miscisin
Clerk of Council
Cmin07132020

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**CITY OF BEAVERCREEK
CITY COUNCIL
AGENDA ITEM REPORT**

Meeting Date: July 27, 2020	Reference Topic: PC 20-3 Land Use Plan Update
Agenda Reference No. VII. A-D	Ordinance 20-15

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 _____

REQUEST FOR REVIEW

Attached is a strikethrough copy of the proposed changes to the City's Land Use Plan.

RECOMMENDATION:

Planning Commission and staff recommend approval of this project as described in the attached ordinance. See attached memo for further details.

PROCEDURAL OPTIONS FOLLOWING ACTION:

City Council may choose to approve, disapprove, modify or table this project for further review.

TO: City Council

FROM: Randall Burkett, Planning and Development Director

RE: **Land Use Plan Update**

DATE: July 23, 2020

As City Council is aware, staff has been working on an update to the 2015 Land Use Plan since late 2019. The attached document, dated July 23, 2020, is a strikethrough version of the proposed changes, with proposed additions in red text, and proposed deletions in red strikeout text. Portions of the text highlighted in yellow represent changes (based on public input and further review) to the version approved by Planning Commission on January 9, 2020.

The substantial changes from the 2015 plan to 2020 proposed plan include:

- Creating a new designation: **Mixed Use**. Mixed use areas are intended to provide adequate and suitable space for mixed-density residential, developed with accompanying commercial and office. Not intended for stand-alone residential.
- Combining **Open Space/Public; Open Space/Private; and Public Facilities** into one comprehensive classification: **Open Space – Public Facilities**. The reasoning is a graphic one, in that the fewer categories, the more readable/usable the map.
- Eliminating **Research/Commercial** and **Medium Density-Office** categories. These were categories that only had a few properties associated with them, and again in the interest of making a more readable map, they were eliminated. In most uses, properties designated as the above categories were wrapped into **Mixed Use**.
- Changing the maximum density of **Medium-Density Residential** from less than 5.51 dwelling units per acre to less than 6.01 dwelling units per acre.
- Elimination of VPAS 12, 13, 54 and 68. Reduction of VPAs 2, 15, 17, 32, 59 and 64 Also we are proposing to combine former VPAs 76 and 77 into new VPA 92, and combine former VPAs 80 and 82 into 93.
- Changes of land use classifications as described in Exhibit B of the draft document.

Please note that the page numbers in the plan's Table of Contents don't match the pages in the plan in your packets. This is due to showing text that was deleted. The final non-strikethrough version will have matching page numbers.

ORDINANCE NO. 20-15
CITY OF BEAVERCREEK

SPONSORED BY COUNCIL MEMBER _____ ON THE
27TH DAY OF JULY, 2020.

**AN ORDINANCE AMENDING THE LAND USE PLAN IN
ACCORDANCE WITH CHAPTER 158.171 (D) (1) OF THE CITY OF
BEAVERCREEK ZONING CODE.**

WHEREAS, the City of Beavercreek Planning Commission has determined it necessary to make certain additions, deletions and changes to the City of Beavercreek Land Use Plan; and

WHEREAS, following a public hearing held on January 9, 2020, Planning Commission voted to recommend the additions, deletions and changes to the City of Beavercreek Land Use Plan to Beavercreek City Council; and

WHEREAS, the City Council has voted to adopt the recommendation of the Planning Commission with amendments, this being a decision that requires approval by four members of Council.

NOW, THEREFORE THE CITY OF BEAVERCREEK HEREBY ORDAINS:

SECTION I

The current language, numbers and words of various sections of the City of Beavercreek Land Use Plan shall be, and hereby is, amended with the additions, deletions and changes as described in Attachment A, dated July 23, 2020.

SECTION II

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 III

This Ordinance shall take effect from and after the earliest period allowed by law.

PASSED this _____ day of _____, 2020.

Bob Stone, Mayor

ATTEST:

Dianne Miscisin, Clerk of Council

SUMMARY

This Ordinance adopts the proposed changes to the City of Beavercreek Land Use Plan as described in Attachment A dated July 23, 2020.

This is not an emergency ordinance and will become effective 30 days after passage.

PC 20-3 LUP Update Ordinance



Beavercreek

2020

Beavercreek Land Use Plan

2020 UPDATE

PREPARED BY THE BEAVERCREEK PLANNING AND DEVELOPMENT DEPARTMENT

ATTACHMENT A

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Introduction

A Land Use Plan (LUP) is a guide for Planning Commission and City Council to help both decision-making bodies decide what is the anticipated most appropriate use for a specific parcel of land. It is intended to communicate to residents, citizens, property owners, and developers the type of development that the City envisions considering for any land area within the City. The main idea of the plan is to promote and support community health, safety and general well-being through balanced community development.

The most appropriate anticipated use for any given tract of land may not be the highest use possible and may not necessarily be the use that the property owner would desire. The existing use of surrounding land, the type of roadway on which the tract of land is situated, the character of the property itself, the distance of the tract from major traffic arteries, and the potential impact of various uses that could be placed on the tract are all examined in establishing the future land use for the property. The potential economic return to the property owner for various types of uses is not a consideration in land use plans.

A Land Use Plan accomplishes nothing by itself. Rezoning of the property is necessary to change from the proposed use designated by the Land Use Plan to actual use of the property. The application of the Land Use Plan is to provide guidance and direction for development and specific types of uses if there is a proposal and consideration for change to an existing use of property.

A Land Use Plan is a dynamic document that may change over time as the community develops and conditions change. It is also dynamic in that Land Use Plan boundaries are general and approximate and are intended to give only a general location of various use categories, subject to change by City Council on a case-by-case basis, rather than the specific, legally described and adopted boundaries of a zoning district.

Determination of Compliance

The Land Use Plan is a guide for making decisions on development proposals within the City. There will be occasions when the Land Use Plan and a development proposal are not compatible. Boundaries between land use categories as shown on the Land Use Plan Map are not intended to be precise locations and Planning Commission and/or City Council may determine that a proposed development is in compliance with the Land Use Plan even though the development does not mirror the land use category boundaries shown on the Land Use Map.

Although categories of land use that are higher or lower in intensity than those shown for any given area may still comply with the purpose and intent of the Land Use Plan, further study will be necessary to ascertain if an alternative land use category is acceptable or if an amendment to the Land Use Plan must be approved in order to allow an alternative land use category.

The Plan for Land Use

The Land Use Plan consists of two components, a map and text. The text defines and explains the types of land use that are recognized for development within the City and generally designates how and where each use is to occur. The map component constitutes the application of the ideas stated in the text to ~~the land~~ specific areas within the City.

The Land Use Map is not intended to show the precise location of the boundaries between the different uses it designates in certain areas of the City. The text portion of the Land Use Plan is not intended to be so definitive in its categorization of different types of land use that it be considered absolute in specifying every type of use that is recognized or can be envisioned today for future development or restriction in the City. This is more the task of, and problem for zoning to address. The next highest or lowest category of use indicated suitable for a given location may still comply with the goals and objectives of the Land Use Plan. ~~As such, a proposed development may not necessarily requiring~~ require a Land Use Plan amendment be approved by the City if for a said proposed development does not strictly adhering-adhere to use designation(s) indicated for an area. ~~This is of course providing~~ ded adjacent land use compatibility is accounted for through a recognition of the need to require effective screening and buffering between uses of differing intensity. In some cases, when an ancillary or secondary use of a larger development does not align with the classifications highlighted in the Land Use Plan Map, a Land Use Plan amendment may not necessarily be required, so long as the primary use of the development is generally what is classified in the Plan for the area.

In summary of the substance of the Plan, the majority of the City is designated for continued development of low-density residential, the type of land use that is already most extensive and common throughout the City. Most of the additional development of this type is shown occurring adjacent to the same type of existing residential development.

Adoption and Revision

As with any long-range community-based document, this Plan must be regularly reviewed to maintain viability. As new concepts for development emerge and/or as public needs change, so should this Plan be revised to better recognize, address, and reflect upon these new concepts and/or community needs. At a minimum, the plan should be reviewed and updated every 5 years, or as required by the Planning Commission and/or City Council.

Amendments to the Land Use Plan

Amendments to the Land Use Plan shall be initiated by staff, ~~the~~ Planning Commission and City Council. Staff reserves the right to seek input from Planning Commission prior to formally starting the Land Use Plan Amendment process.

If Planning Commission elects to consider a Land Use Plan Amendment, a public hearing shall be held by Planning Commission within 60 days, following local newspaper publication of a notice of public hearing at least fifteen (15) days prior to the date of public hearing. Upon completion of the public hearing, Planning Commission shall either recommend disapproval of an amendment to the Land Use Plan and forward a recommendation of disapproval of the development proposal to City Council, or recommend to City Council the introduction of an Ordinance amending the Land Use Plan and also forward to Council its recommendation on the development proposal. When Planning Commission has determined that a development proposal is in conflict with the Land Use Plan, Planning Commission may choose to not proceed with consideration of a Land Use Plan Amendment and recommend to City Council the denial of the development proposal.

City Council may initiate an amendment to the Land Use Plan by introduction of an ordinance amending the Land Use Plan. City Council shall not proceed to second and third reading of the Ordinance until the ordinance has been forwarded to Planning Commission for review and recommendation. Development plan proposals and Land Use Plan amendments can be considered in the same time period by Planning Commission and/or City Council.

Land Use Classifications

Introduction

Land Use Plans require universal language in order to allow for the effective communication of land development concepts, usually in the form of generalized land use categories that encompass specific types of uses of different intensity. Twelve (12) land use categories are used in the Land Use Plan for the City of Beavercreek:

- Open Space -~~Recreation (Public)~~-Public Use
- ~~Open Space - Recreation (Private)~~
- ~~Public Facility~~
- Low Density Residential (up to 3.01 du/ac or dwelling units per acre)
- Medium Density Residential (up to ~~5.516.01~~ du/ac)
- High Density Residential(up to 9.51 du/ac)
- Office
- Neighborhood Commercial -~~Neighborhood Office~~
- Community Commercial - ~~Community~~ Office
- Office
- Mixed Use
- Regional Commercial - ~~Regional~~ Office
- Residential Office (low-density residential)
- Research Office
- Research and Development, Office, Light Industrial- High Tech Manufacturing

This chapter defines the various land use categories and generally discusses location requirements respective of the types of uses within each category.

Open Space/~~Recreation/Public or Private~~-Public Use Classification

Open Space/~~Recreation/Public, Open Space/Recreation/Private, and Public Facility-~~Public Use- categories-areas are intended to represent a current inventory of public land, public parks and public ~~and private~~-recreation sites, environmentally critical areas, such as floodways, passive open space designed to control and direct growth, and property owned and used by the City of Beavercreek, or other governmental entities.

The activity-oriented uses represented by the Open Space/~~Recreation/Public or~~



~~Private~~-Public Use categories-category includes public parks, a public-/private golf courses, public/~~private~~ recreation facilities, and city-owned facilities. The land area included in this category is descriptive rather than prospective; i.e., the land is currently used for the category. City facilities and lands are included in the category in recognition that land uses necessary for the operation of a city may not neatly fit into a future land use plan. Therefore, the city

properties, for example in Alpha and on Research Park Drive, will-may, in the future be developed according to their intended use and the needs of the City, and not as open space and recreation.



General Residential Classification

For the purpose of the Land Use Plan, residential development has been categorized into three groups according to density: Low Density Residential, Medium Density Residential and, High Density Residential. Gross density, as defined in the Zoning Code is used to differentiate the residential densities described in this section. Future development is not prohibited from developing at a lower density level than is specified by the range indicated by the Land Use Plan and Map for a particular area of the city. For purposes of the Land Use Plan, Low Density Residential is less than 3.01 dwelling units/acre and Medium Density Residential is less than 5.56.01 dwelling units/acre. High Density Residential is less than 9.51 dwelling units/acre.

Areas classified as Residential Office are intended to be a mixture of residential uses and small scale office and professional service establishments. It is intended that these areas be used to act as a transition between established residential neighborhoods and nonresidential uses. It is also intended that the physical appearance of such areas including all buildings and structures within such areas be residential in nature and design, and the conduct of permitted uses not create or generate traffic or noise detrimental to adjoining neighborhoods. If new residential structures are constructed in Residential Office areas, they should be developed at a low-density (less than 3.01 du/ac).

Residential development within the City should preserve or attempt to create a completely unified neighborhood, having safe, convenient access to school, places of religious assembly, and park sites.

In considering applications for development of projects that consist of elderly assisted living units and/or senior apartments, the Planning Commission and City Council may approve developments which exceed the maximum density limits if it is determined that the project impact is less than or equal to a non-elderly residential project. Integrated commercial/residential projects are not subject to density standards, so long as the project, as a whole, either does not have negative impacts on surrounding neighborhoods, or those impacts are mitigated by methods approved by Planning Commission and City Council. Densities higher than 9.5 du/ac in integrated commercial/residential projects will require extraordinary attention to architectural standards, landscaping and traffic mitigation.

Single Family Residential Classification

Low Density Residential development should occur at densities of less than 3.01 dwelling units per acre. Dwelling types may be single family, two-family, and/or multifamily development at appropriate locations, as long as they meet the overall density requirements.



Medium Density Residential Classification

Medium Density Residential development describes areas allowing less than 5.516.01 dwelling units per acre. Dwelling types may be single family, two-family, and/or multifamily development at appropriate locations, as long as they meet the overall density requirements. Public water supply and sanitary sewer service are required for areas designated for Medium Density Residential development.



High Density Residential Classification

The High Density Residential designated areas are for development at densities less than 9.5 dwelling units per acre. Dwelling types may be single family, two-family or multiple-family structures, as long as they meet the overall density requirements. Both public water supply and sanitary sewer service are required for areas designated for High Density Residential. Due to the complexity and integration with surrounding commercial projects that many high density residential projects feature, many, if not all, high density residential projects are recommended to go through the -for processing as Planned Unit Development process.



Office Classification

The Office land use designation is intended to provide areas for concentrations of office-type uses primarily in an office park setting or a cluster of individual office structures.

Although the Neighborhood-Commercial, ~~Neighborhood~~-Office, Community Commercial/~~Community~~-Office and Regional Commercial/~~Regional~~-Office land use designations all would permit office uses, this category has been developed specifically for those areas where the use of land for office is appropriate but the addition of commercial and retail uses would not be ideal as the primary use for the given area. The office designation therefore is intended to serve several purposes.

The first purpose of the Office designation is to provide areas of transition between more intensive non-residential uses and the less intense residential uses. Office designation is also applied to areas that are not conducive to either residential or commercial uses because of limitations of access.

Office type uses that are appropriate for this given designation of land use, include business parks, office parks, individual office uses (under certain circumstances) and certain small facilities incorporating small area-scale warehouse and distribution, with office functions.



Commercial Classification

A well-balanced system of planned commercial sites is an integral element in the overall economic health of the City of Beavercreek. Commercial developments should occur at strategic locations along the transportation network, which provide direct and/or convenient access to and from respective commercial centers. When developing either along existing commercial corridors, or designing new commercial centers, every effort should be made to limit the number of direct curb cuts onto the public transportation network. The use of shared access roads, typically parallel to public thoroughfares, is highly encouraged.

Commercial/Office development is categorized into three (3) distinct groups that are functionally different in intensity. They are: Neighborhood-~~Commercial~~/~~Neighborhood~~-Office, Community-~~Commercial~~/~~Community~~-Office and Regional ~~Community~~/~~RegionalCommercial~~-Office. Each type possesses a unique set of location requirements with respect to market area, accessibility, and relationship to surrounding land uses.

Public water supply and sanitary sewer service must be available to commercial sites at the time they are developed since commercial development often stimulates additional surrounding commercial activity and higher densities of residential development at adjacent locations.

Neighborhood-Commercial/~~Neighborhood~~-Office and Community-Commercial/~~Community~~-Office Classification

Neighborhood-Commercial/~~Neighborhood~~-Office

Neighborhood-Commercial/~~Neighborhood~~-Office developments generally are small projects containing uses that are intended to provide for the daily needs of residents that live nearby. They typically include: daycare centers, restaurants, grocery stores, drug stores, barber and beauty shops, laundries, dry cleaners, gas stations, florists, and other similar types of businesses offering everyday convenience goods and personal services. In some instances it may be appropriate to mix uses of residential within areas that are classified as Neighborhood-Commercial/~~Neighborhood~~-Office.



Community Commercial/ Community Office

Community-Commercial/~~Community~~-Office developments are geared toward a market the size of the entire City, and provide a broader range of merchandise and comparative shopping opportunities, in addition to convenience-type retail and service establishments that are usually found in Neighborhood Commercial/~~Neighborhood~~-Office developments. Within this classification, in addition to services typically included in Neighborhood Commercial-Office areas, offices for professional and personal services, such as: lawyers, doctors, dentists, realtors, insurance, etc., should be encouraged.

In some instances it may be appropriate to mix uses of residential within areas that are classified as Community Commercial -Office, if part of a larger, mixed-use development.



Regional Commercial/~~Regional~~ Office Classification

Regional Commercial developments provide a full range and variety of all aspects of commercial activity, oriented around one or more major department stores. These types of developments typically have a market area spanning a multi-county metropolitan region. Regional Commercial developments provide ~~complete comparison~~ a broad spectrum of shopping goods and services. Because of this characteristic, its customer drawing power stems from its capacity to offer complete shopping facilities as a form of entertainment experience. This attraction extends its trade area by 10-15 miles, and in some cases up to 50 miles, modified by the factors of competitive facilities and travel-time, compared to other similar facilities in the region with relation to point of origin of patrons.



Within this classification, offices of regional size should be encouraged as a land use of like intensity. The office park is an emerging type of commercial land development. It may not be merely a freestanding suburban office building, but a cluster of office structures having characteristics of mixed use developments. Non-retail services such as hotels, arenas/amphitheaters, and conference centers should also be anticipated. Therefore, they should be located along arterial roads located at or near freeway interchange access.



Mixed Use

Mixed Use developments provide a full range and variety of all aspects of commercial, office and residential activity. Mixed use areas are intended to provide adequate and suitable space for mixed-density residential, developed with accompanying commercial and office uses. Buffers between these developments and low density residential developments can be a combination of open space and screening, or can be a creatively designed transition area of residential to non-residential uses.



Research and Development, Office, Light Industrial - High Tech Manufacturing Classification

This category includes research and development uses, as well as general high technology manufacturing operations, offices and warehousing, and light industrial uses. Collectively, these uses lend themselves toward the design of research and business park employment centers.

This type of development requires public utilities, such as: three-phase electric power, gas, water supply and wastewater disposal. The availability and capacity of such utilities is a major factor in the attractiveness to develop properties within this land use category.

Research and Development, Office, Light Industrial- High Tech Manufacturing areas should be located within easy commuting time close proximity of the labor force, and possess excellent access to the many methods of transportation required to ship raw materials and finished products. Sites should be a reasonable

distance from intersections of regional network thoroughfares that in turn access major highways via interchanges. Sites should be located so that trucks and employees do not travel through residential or commercial areas, but rather along the periphery of those urban uses of the community, in accessing a freeway arterial.

Adequate physical separation between Research and Development, Office, Light Industrial- High Tech Manufacturing and other land uses, especially Residential, should be provided whenever possible. Highways, parks and recreation facilities, or natural physical features such as creeks and changes in topography should be encouraged to be used as buffers whenever possible. Buffers also restrict the encroachment into such designated areas by residential, commercial, or other land uses.

Within the Research and Development, Office, Light Industrial, - High Tech Manufacturing classification, a multitude of uses may be appropriate, including laboratories, office space and ancillary retail. Light manufacturing may be appropriate in these areas when the use is completely enclosed within a building without significant negative external effects experienced beyond property boundaries. Specific use designations require understanding of the potential ambient effects associated with each type.



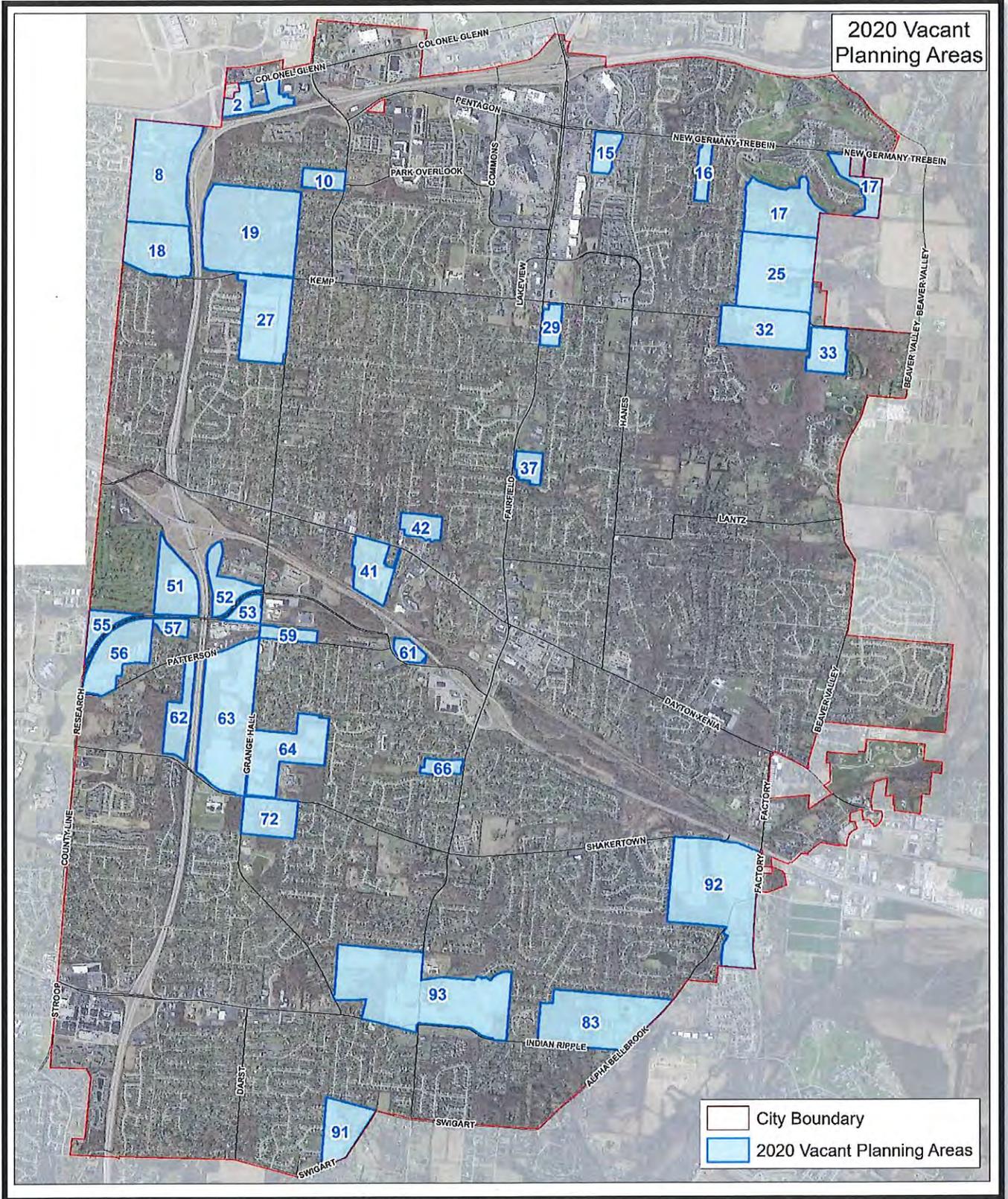
Vacant Planning Areas

At the time the Land Use Plan was first adopted in 1990, the plan covered only the 93 vacant planning areas (VPAs), which were primarily large parcels of undeveloped land scattered throughout the city. The plan has been amended over the years to create additional vacant planning areas for property which had been annexed to the city since 1990 and to include three distinct planning corridors, identified by the designation “Indian Ripple Planning Area”, “Dayton-Xenia Road Planning Area”, and “Colonel Glen Highway Planning Area”.

Development and proposals for land use designation are based on analysis of essential determinants which affect the usability of land for certain types of uses. Those determinants included thoroughfare access, sewer and water availability, and adjacent use compatibility. The text of the Land Use Plan below describes for each Vacant Planning Area the shape, size, location and surrounding uses specific to each VPA.

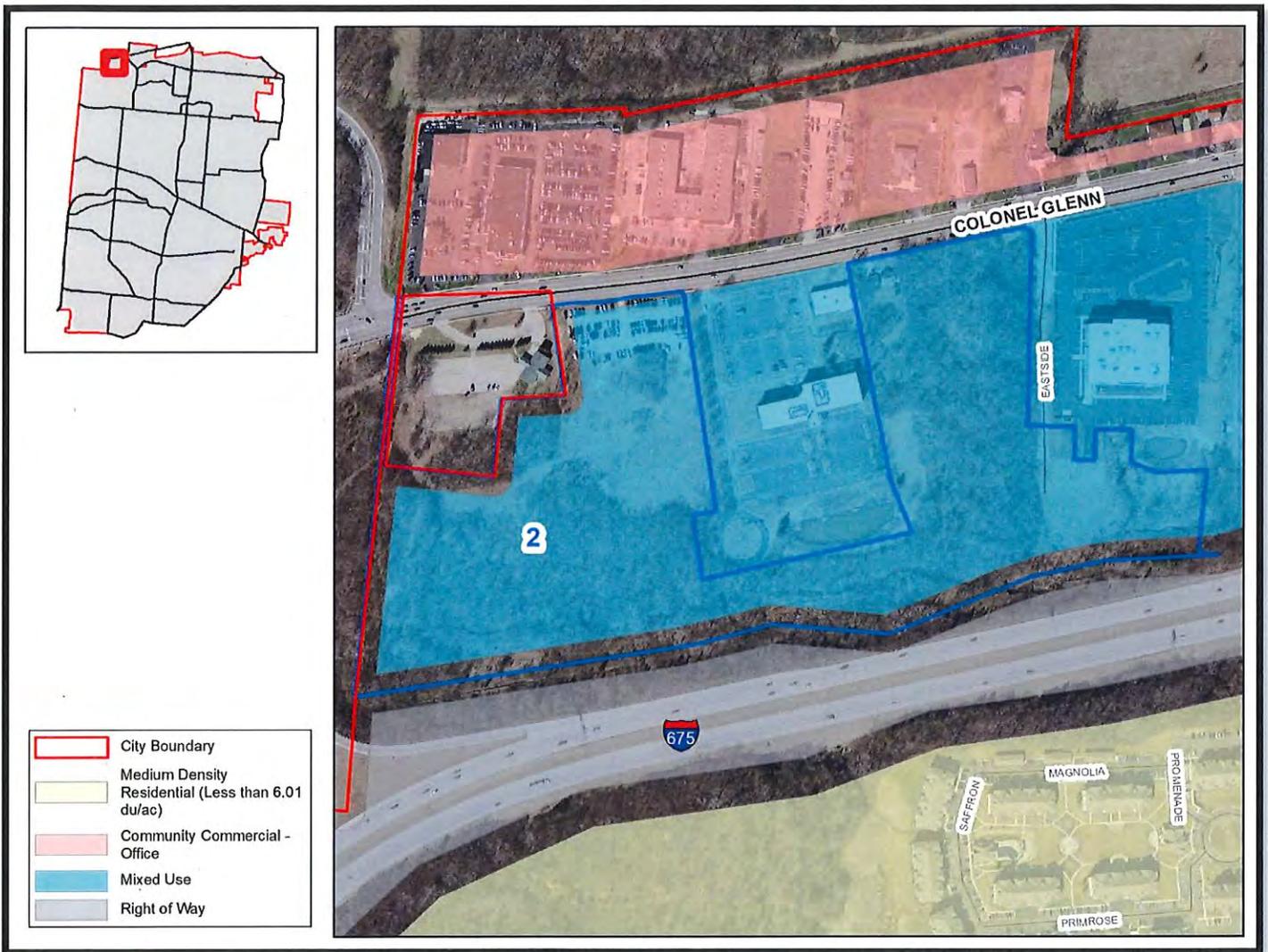
Since first inception, several Vacant Planning Areas have been developed, and are no longer classified as vacant. The following pages describe 39-33 of the original 93 Vacant Planning areas which are still completely or substantially vacant. The 39-33 VPAs constitute a combined 2,445,150 acres, or 44.12% of the City.

Four VPAs from the 2015 Land Use Plan are no longer designated as such with this update, four VPAs were combined into two VPAs, and five VPAs had a significant portion of their area reduced. These eliminations and/or reductions were due to either development occurring within the area, or due to development patterns in the vicinity of the former VPA. The 2015 Land Use Plan included the areas that contain Cedarbrook Flower Farm Development, Traditions of Beavercreek, an estate-sized private residence, and Northrup Grumman office building, among others.



Vacant Planning Area 2 (PDA)

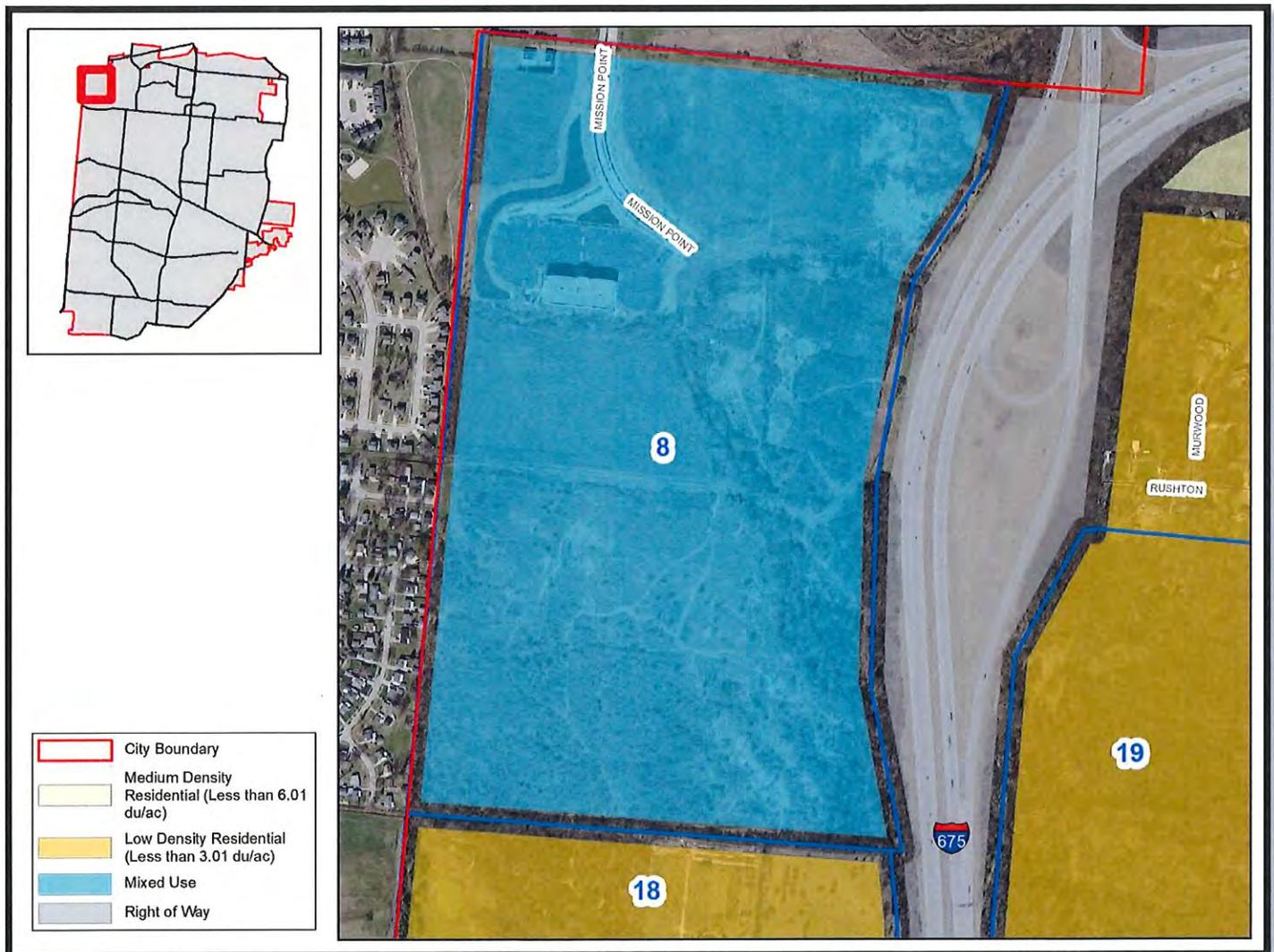
VPA 2, which is approximately ~~36~~29.5 acres, contains Signal Hill, an office development at the eastern portion of the VPA, and overflow parking for Dave Dennis Auto Sales at the westend. The vacant land remaining in VPA 2 is designated for ~~development of Research and Development/Office/High Technology Manufacturing use~~Mixed Use development, in compatibility with now existing adjacent uses to the west and east, between the Colonel Glenn Highway and Grange Hall Road interchanges with I-675.



Vacant Planning Area 8

VPA 8, which is approximately 135 acres, is located south of the vacant U.S. government property along Colonel Glenn Highway, between I-675 to the east and the county border to the west. VPA 18 is located to the south. VPA 8 is designated for Research and Development/Office/High Technology Manufacturing Mixed Use in consideration of its proximity to WPAFB and contingent on access being provided across the federal property to Colonel Glenn Highway the various principal and accessory uses compatible with the Air Force Base, and the defense program in general.

Over the last several years, VPA 8 has developed 93,000 square feet of commercial office space. The PUD associated with this development allows for up to 1.45 million square feet of mixed use including commercial, office and residential.

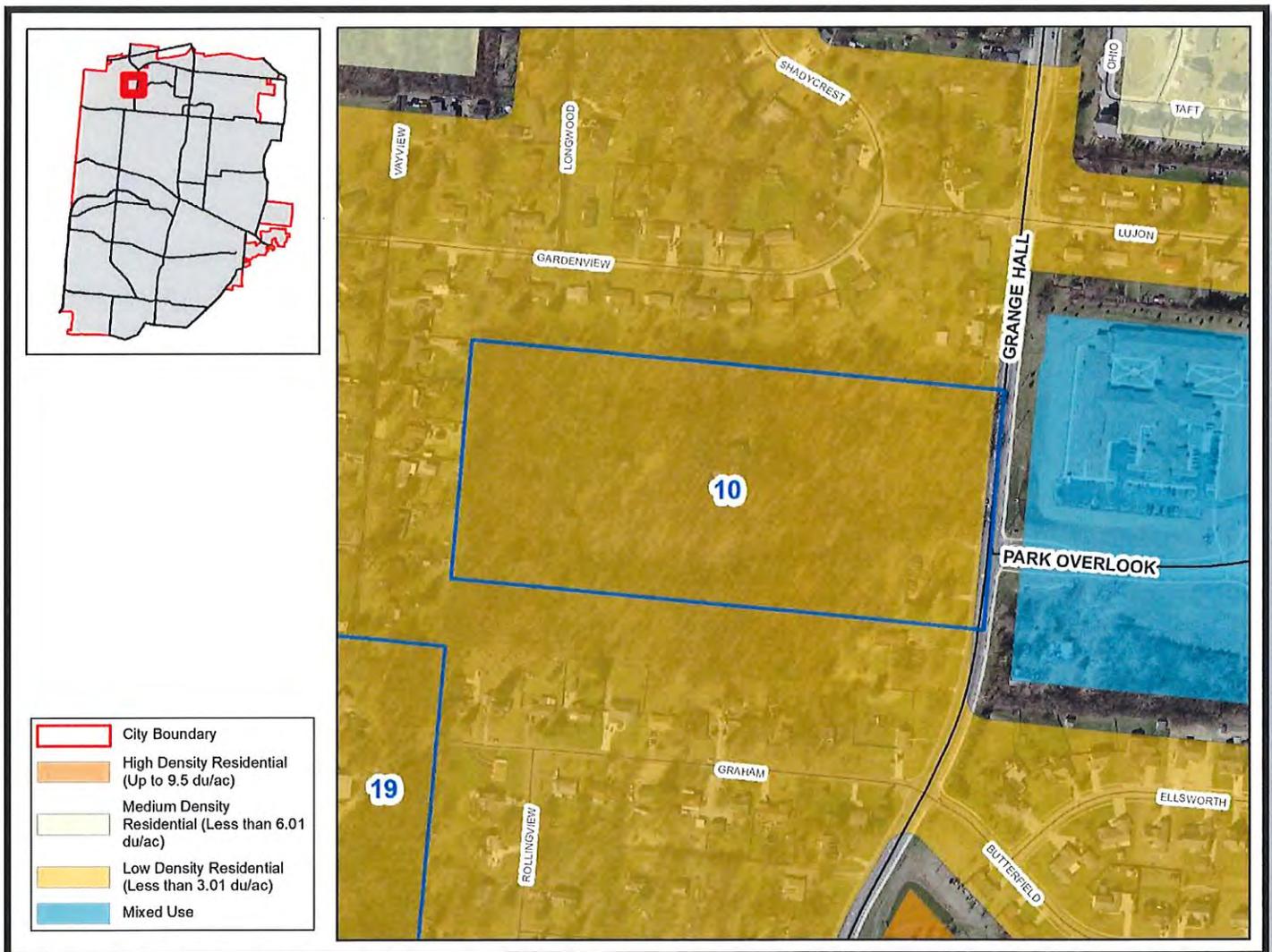


Vacant Planning Area 10

VPA 10, which is approximately 18-17.7 acres, is a small subdivision (~~Anderson~~) west of Grange Hall Road in northwest Beavercreek that is surrounded by Grangeview Acres to the west and north, Hillcrest subdivision to the south, and an assisted living facility to the east.

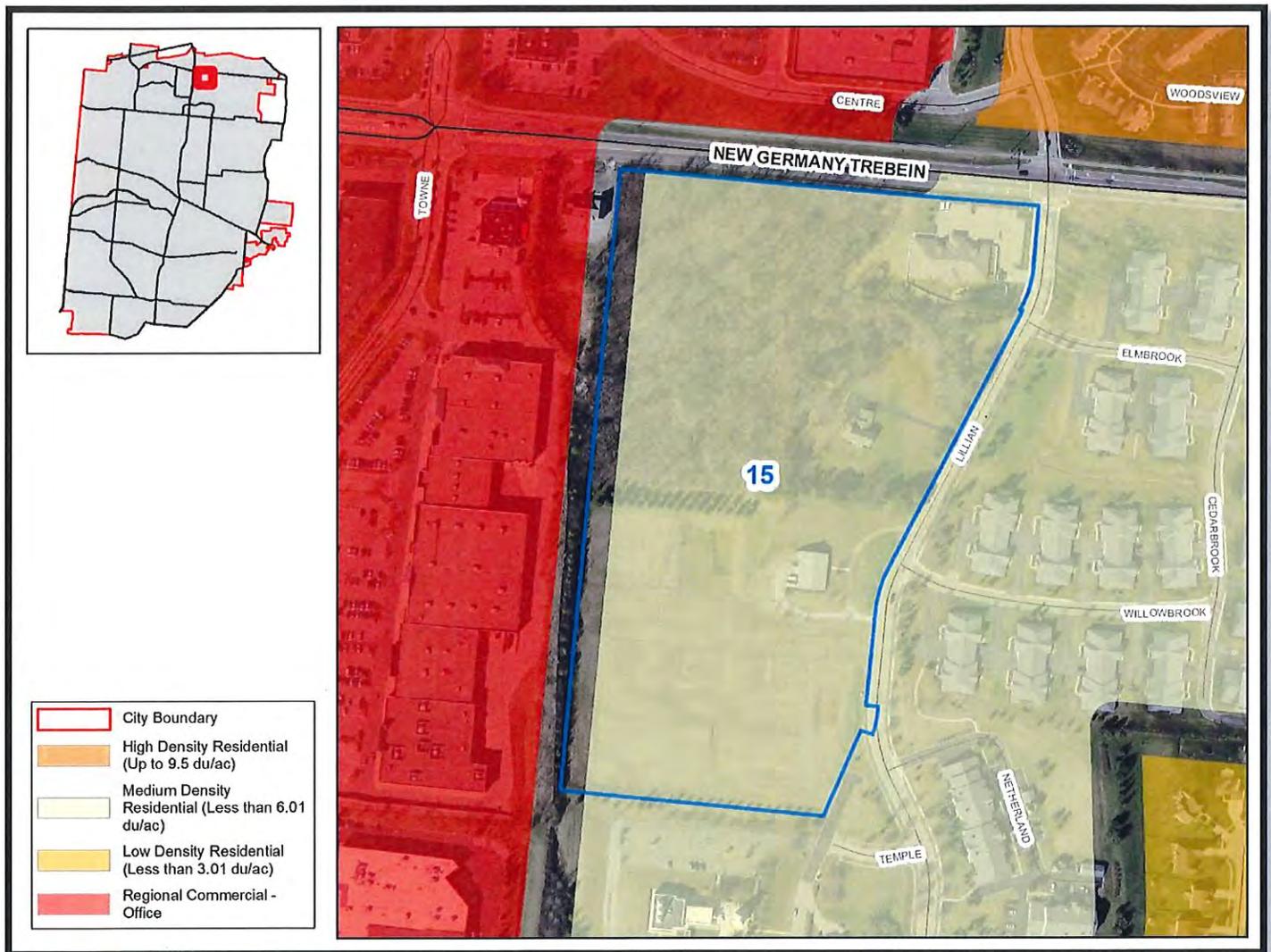
The VPA contains four houses on estate-sized lots. Its use is designated for continuation as Low Density Residential development which is the present use of VPA 10.

Should this area develop as a cohesive project, every effort should be made to line up the entrance from Grange Hall Road with Park Overlook Drive. This property has a stream traversing east to west. Any development within this VPA should work around this stream, while taking in consideration existing vegetation and natural riparian buffers.



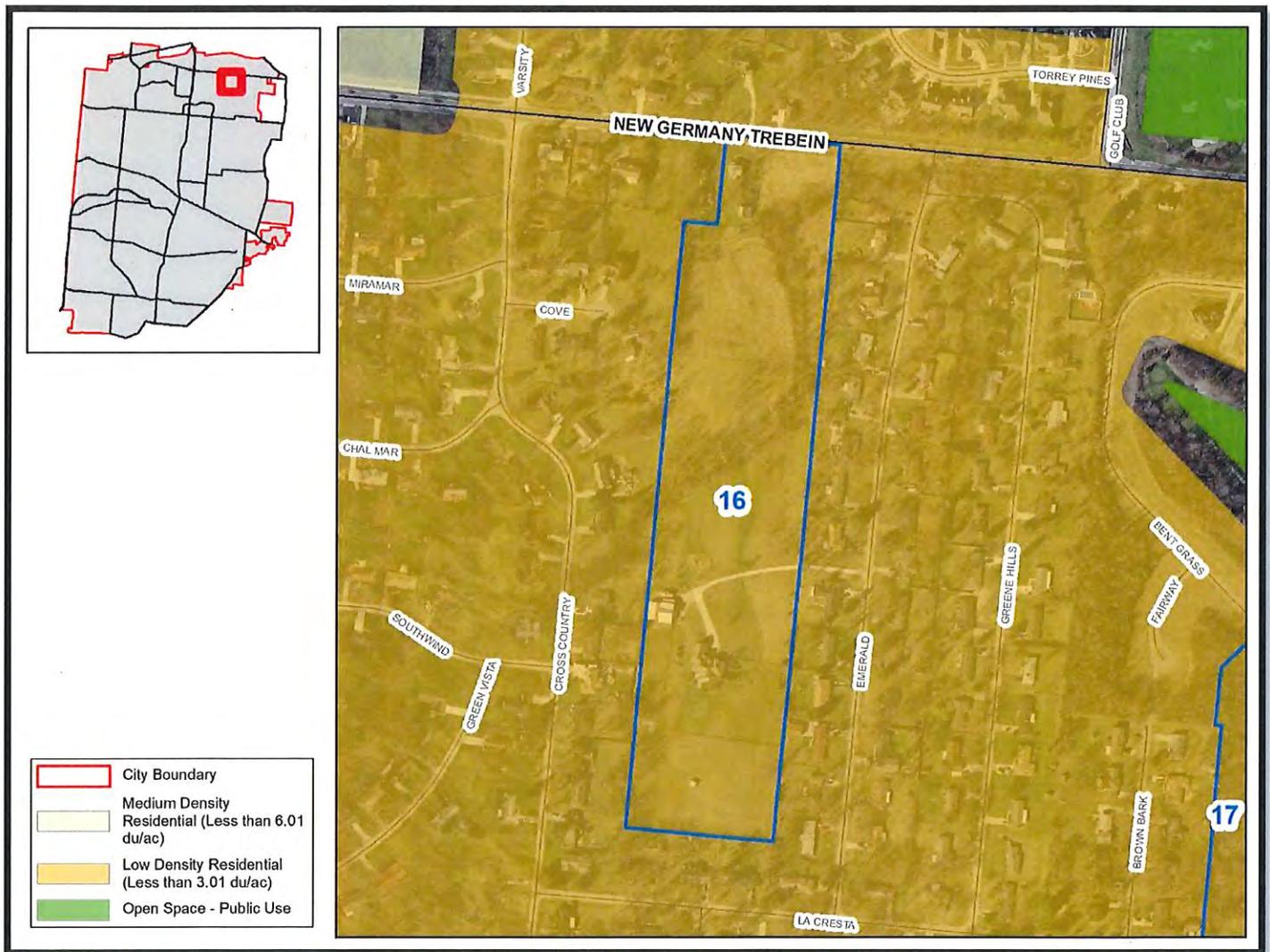
Vacant Planning Area 15

VPA 15, which is approximately ~~32-20~~ acres, is located south of New Germany-Trebein Road in north central Beavercreek. Given its frontage on Lillian Lane and its location between Brookstone residential development to the east and shopping centers to the west, VPA 15 is designated for ~~Office use~~ Medium Density Residential. ~~Office use is more compatible with nearby proposed residential development. The Hindu Temple that is located in VPA 15 and has upgraded significantly over the last few years.~~ The Rainbow Child Development Center is located on the southwest corner of Lillian Lane and New Germany Trebein Road. The northwest portion of the VPA contains floodway and fringe of the New Germany Branch of the Beaver Creek.



Vacant Planning Area 16

VPA 16, which is approximately 17 acres, is a long, narrow area surrounded by low density residential plats in northeast Beaver Creek, south of New Germany-Trebein Road. It is presently an individual family home site and is designated for Low Density Residential.

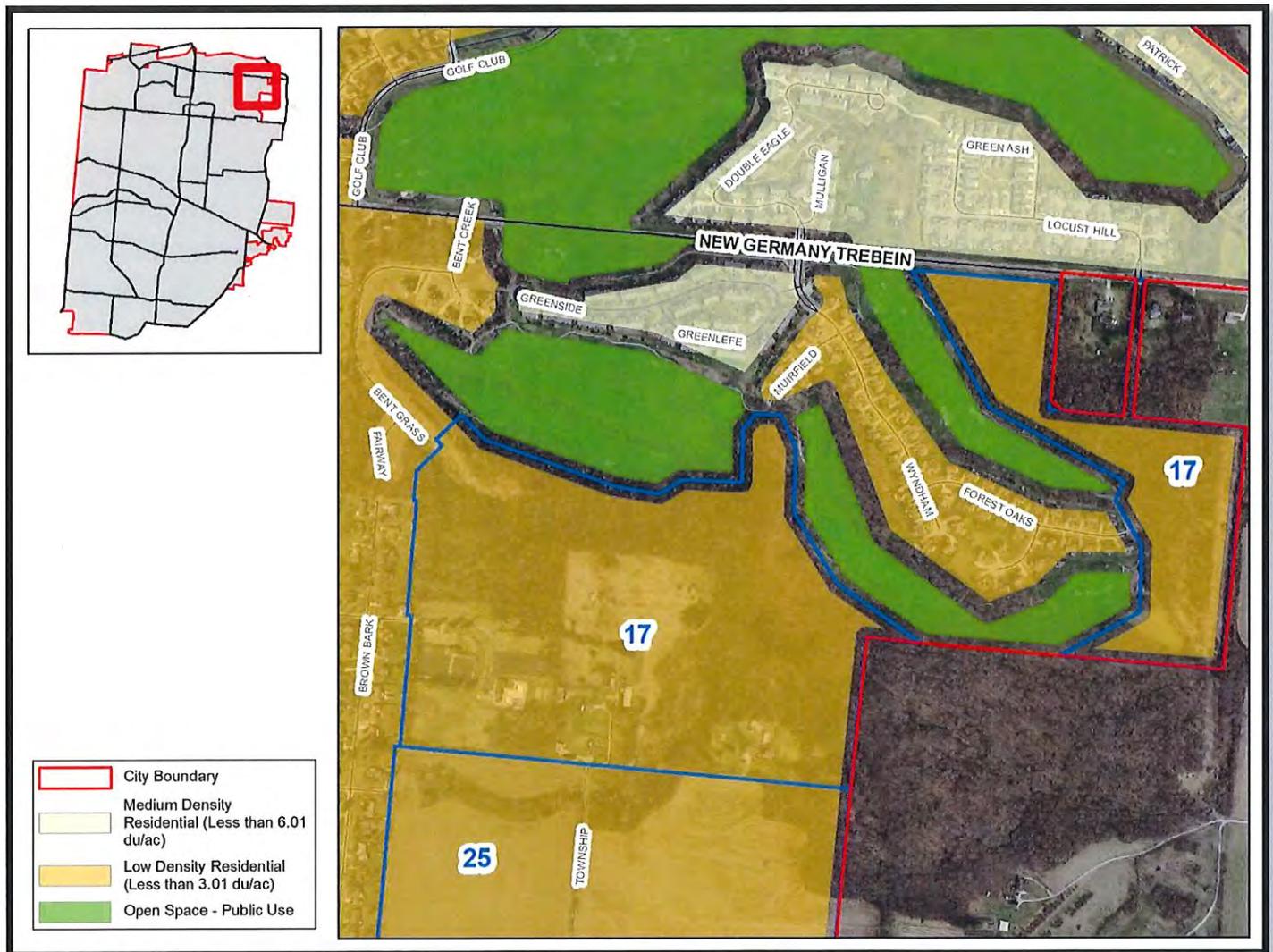


Vacant Planning Area 17

VPA 17, which is approximately 105 acres, is located along the eastern border of the City, south of New Germany-Trebein Road in northeast Beaver Creek. The northern and eastern portions contain the Beaver Creek Golf Club and adjacent new-Medium and Low Density residential development.

VPA 17 is designated for Low Density Residential development. Development in this VPA should be in similar scale and design as the newer homes that have been constructed in the areas immediately adjacent to the golf course.

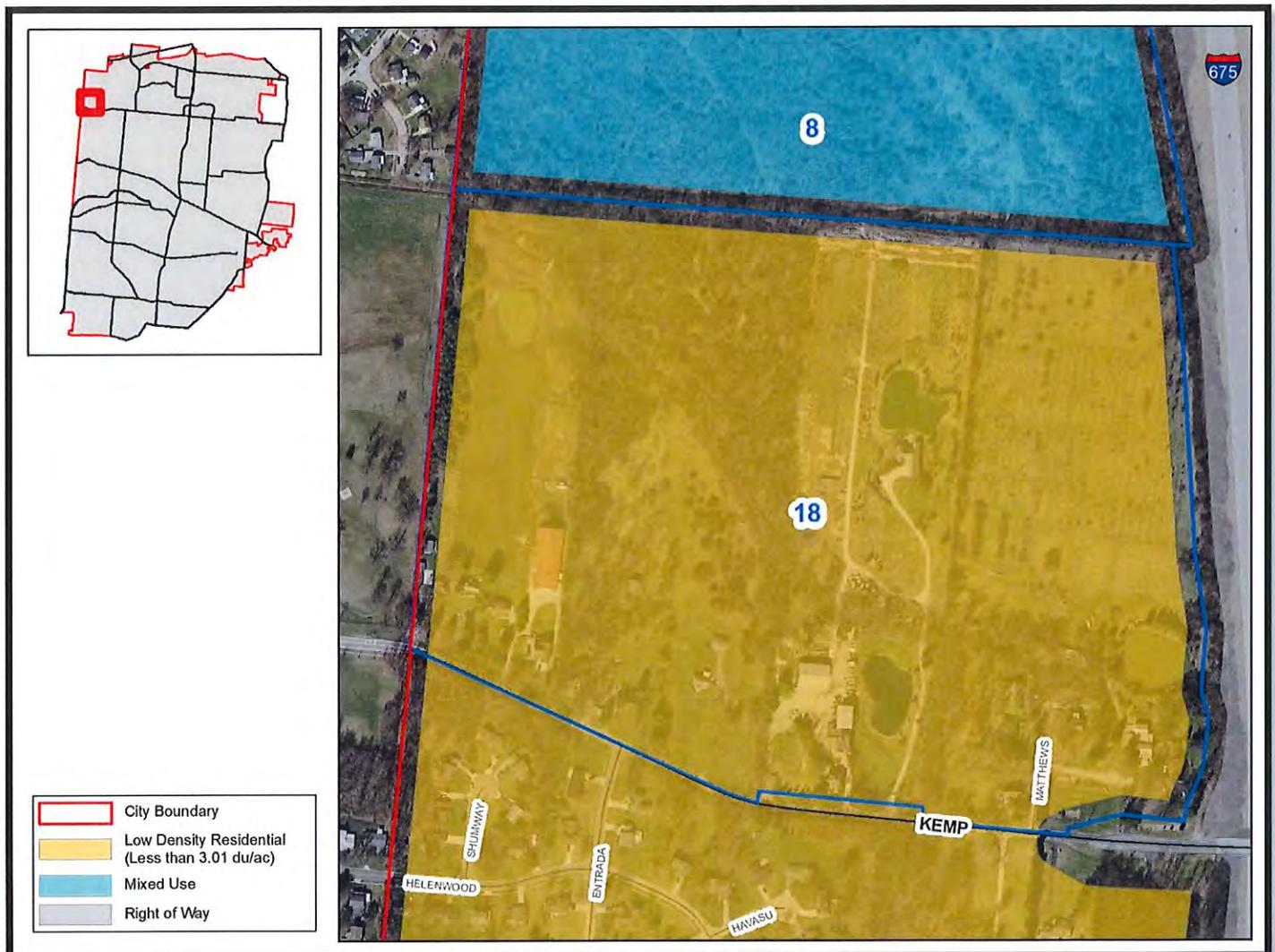
None of VPA 17 is located within a regulatory floodplain.



Vacant Planning Area 18

VPA 18, which is approximately 71 acres, is located along the western border of the City, north of Kemp Road. This area is relatively remote compared to other locations in the City, given it is cut-off by I-675 and network road access is only via Kemp Road. Largely for reasons of limited accessibility, VPA 18 is designated as Low Density Residential. Such use would pose the least traffic impact and would be most compatible with the existing single family dwellings that front on Kemp Road, and provides a good transition to the low-density residential to the south. Any large scale residential development should be contingent on roadway improvements on Kemp Road being in place or constructed as part of said development. Through connections to the southern portion of VPA 8 should be included with any large scale development of VPA 18.

Although a creek runs diagonally from the southeast to northwest corners of VPA18, the associated flow has not yet warranted study designation of a regulatory floodplain.

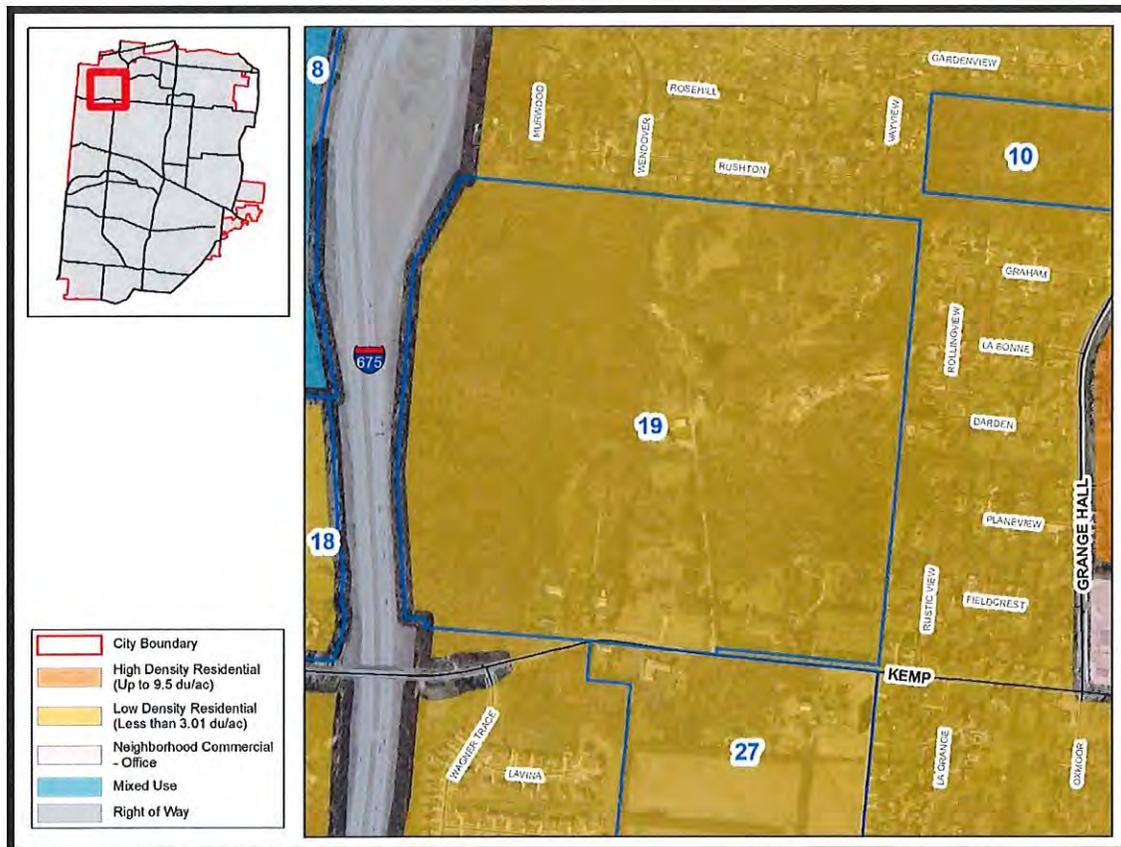


Vacant Planning Area 19

VPA 19, which is approximately 176 acres, is the one of the largest VPAs in the City and is located east of I-675, north along Kemp Road, to the south of the Grangeview plat, and west of the Hillcrest plat. Poor freeway accessibility, land characteristics, physical edge separation by I-675 and Kemp Road, and compatibility with the adjacent residential plats to the north and east is why this area has been classified as Low Density Residential.

VPA 19 is mainly accessed by an unimproved minor arterial (Kemp Road), and have potential secondary access points off of the residential neighborhoods to the north and east. Any large scale residential development should be contingent on roadway improvements on Kemp Road being in place or constructed as part of said development. Primary access to any development within this VPA should be located off Kemp Road. In effort to interconnect existing neighborhoods with any new development, secondary access points to Graham and Darden Roads should also be included.

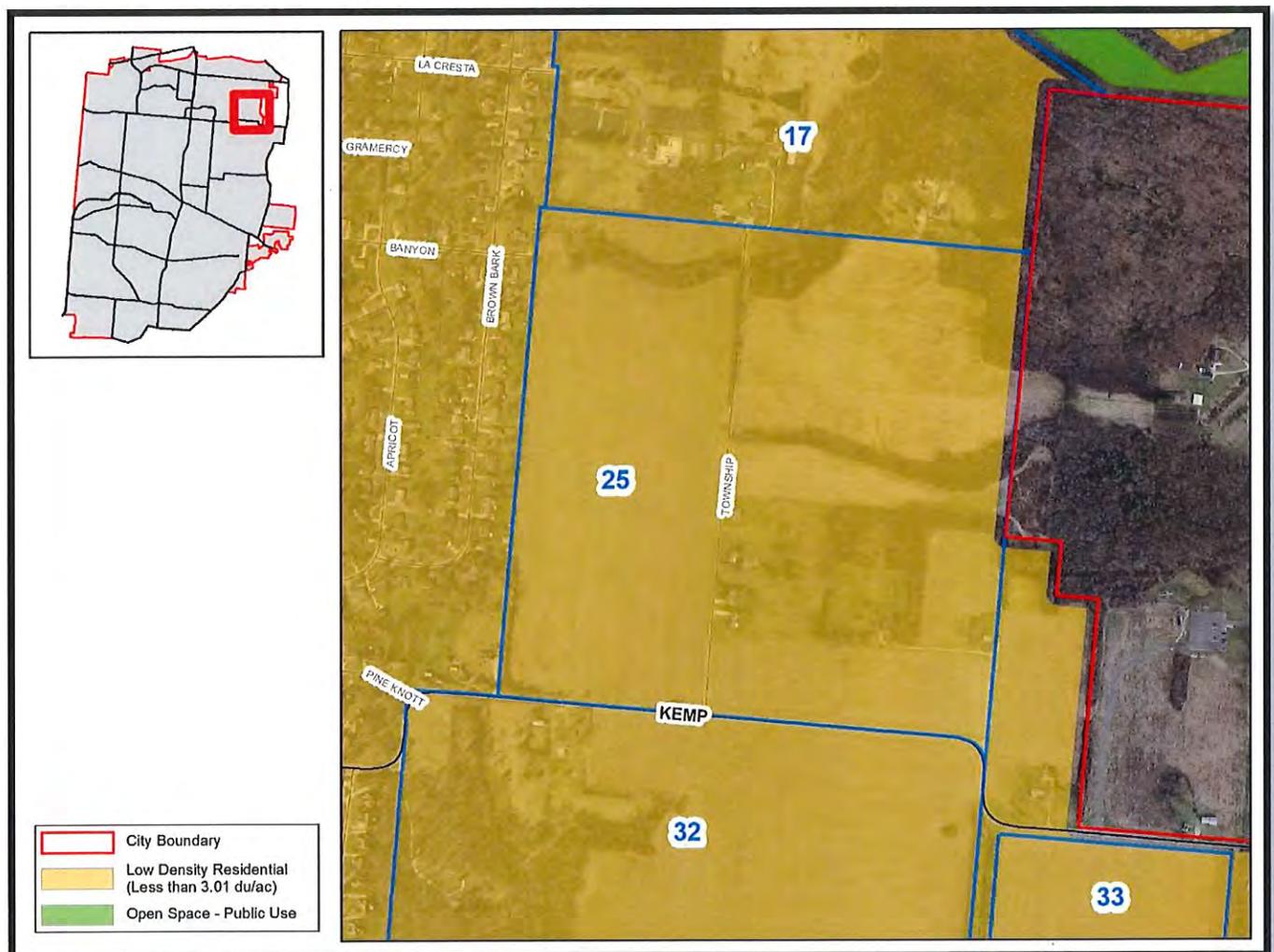
Several small streams come together near the middle of VPA 19, where there are ponds left from gravel pit excavations. That portion of the VAP is less attractive for construction, but the ponds could serve for storm runoff retention as well as be an aesthetic amenity for future development. Although, the creeks on VPA 19 can potentially flood, none have been designated regulatory floodplains.



Vacant Planning Area 25

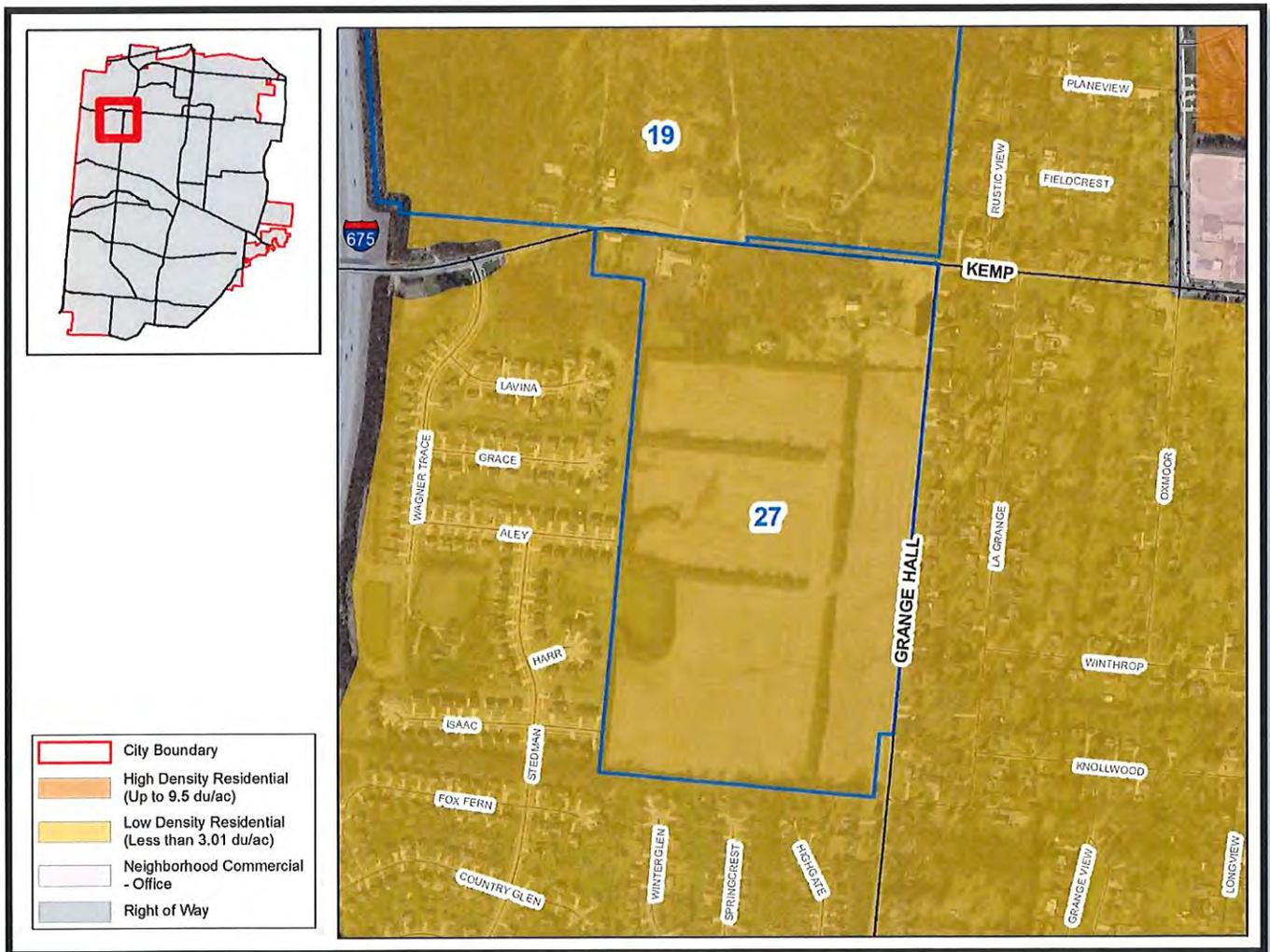
VPA 25, which is approximately 123 acres, is located north of Kemp Road at the eastern border of the City. The Zimmer Estates plat is adjacent to the west, Greene Valley Recreation Club is to the north and is accessed through the Greene Hills Estates plat via La Cresta Drive and an old dumpsite off of Township Road that runs north/south through the middle of VPA 25. There are several single family dwellings on acreage tracts within VPA 25. VPA 25 is designated for Low Density Residential use.

Thoroughfare access is one of the factors that limits VPA 25 from the designated future use. It is approximately 2.5 miles from a freeway entrance/exit and is accessed by an unimproved leg of Kemp Road that is recommended for realignment. Redesign and improvement of this section of Kemp Road should be in conjunction with development of VPA 25 and/or VPA 32.



Vacant Planning Area 27

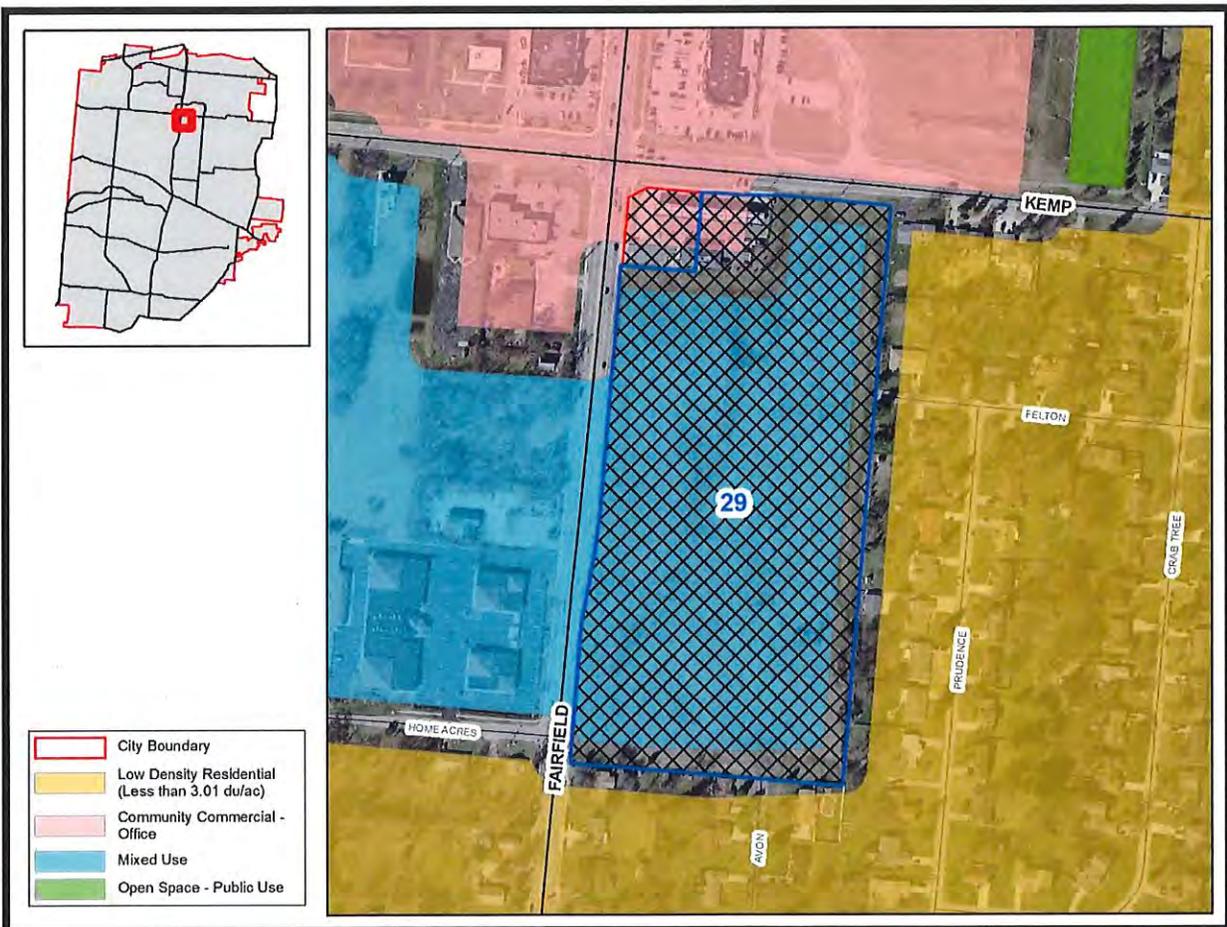
VPA 27, which is approximately 87 acres, is located on the southwest corner of the Kemp Road/Grange Hall Road intersection. It is bordered on the west by Wagner Trace subdivision and on the south by the Summerfield subdivision. Part of the VPA is developed for the Aley United Methodist Church on the south side of Kemp Road along with a few single family dwellings. In order to be compatible with the existing single family residences in Summerfield to the south and Pleasant Knolls to the east, the entire VPA is designated for Low Density Residential. Any large scale residential development should be contingent on roadway improvements on Kemp Road and ~~for~~ Grange Hall Road being in place or constructed as part of said development. Primary access to any development within this VPA should be located off Kemp Road. In effort to interconnect existing neighborhoods with any new development, secondary access points to Isaac and Aley Roads should be included. -None of the VPA is located within a designated floodplain.



Vacant Planning Area 29 (PDA)

VPA 29, which is approximately 16 acres, is located at the southeast corner of the North Fairfield Road/Kemp Road intersection. The adjacent corner is already developed as a gas station/convenience store. To the south and east is the Fairlea subdivision plat, a low density residential neighborhood. With abundance of frontage on two major thoroughfares, as well as intense commercial to the north and Low Density Residential to the east, this VPA is designated as Mixed Use. Higher intensity, community-scale commercial should be focused toward North Fairfield and Kemp Roads, while low intensity neighborhood-scale commercial, office and residential should be focused more toward the eastern property line, with appropriate buffers for the residential properties to the east and south.

In order to avoid cut-through traffic between the different intensity uses, existing adjacent plat streets that stub-out at the southern (Avon Drive) and eastern (Felton Drive) borders of VPA 29 may best serve as emergency access only. The access control plan for North Fairfield Road shows two access points along the east side that fronts on North Fairfield Road and one access point along the northern border at Kemp Road. These access points may need to be modified as development occurs in order to line up with adjacent development access points.

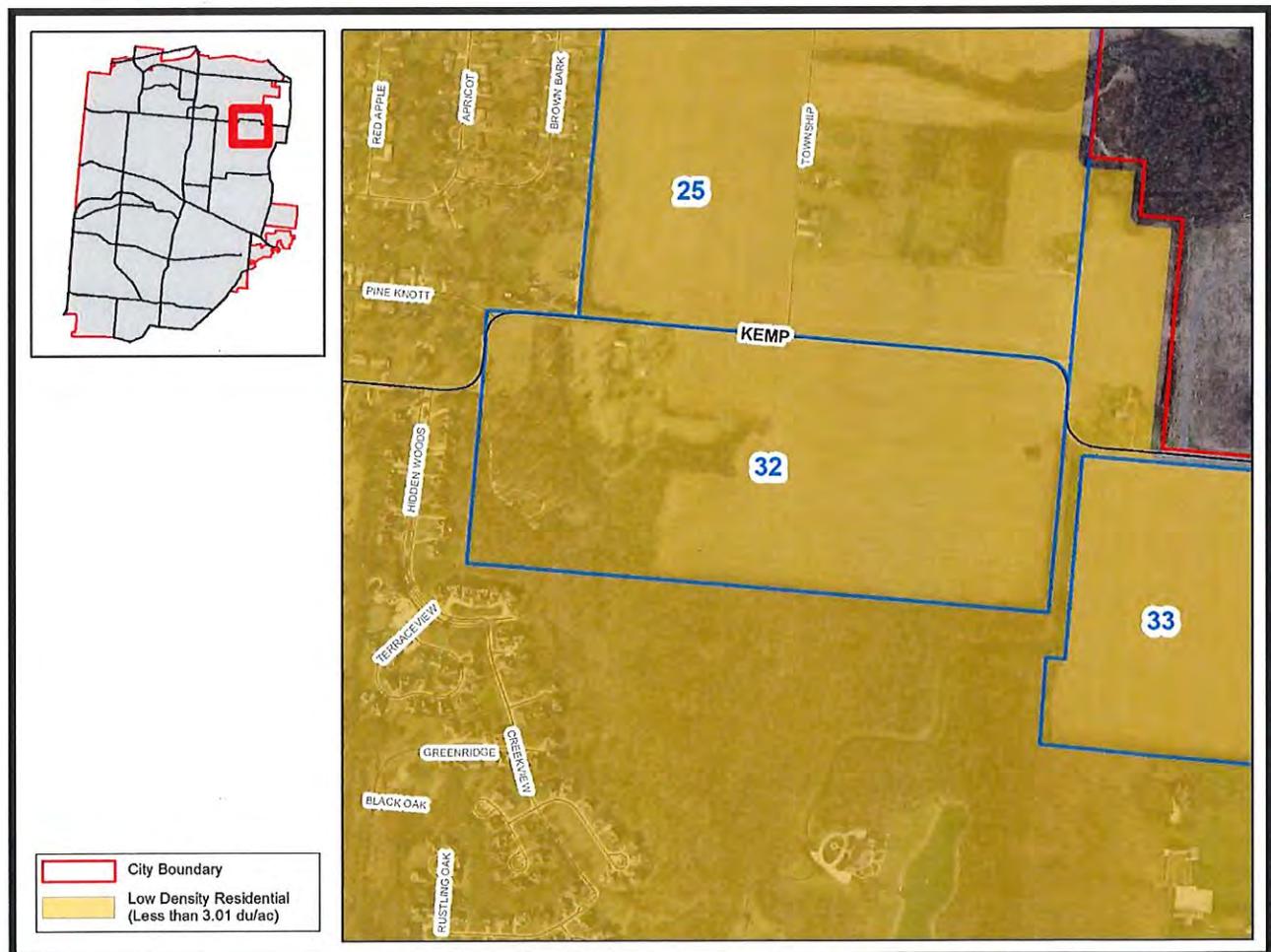


Vacant Planning Area 32

VPA 32, which is approximately 464-74 acres, is located in the northeastern portion of Beavercreek, south of the double-jog segment in Kemp Road. It is bordered by VPAs 33 and 39 to the east, the Rustling Brook plat and large acreage home sites to the south, the Woods residential plat to the west, the Zimmer Estates plat to the northwest, and VPA 25 to the north across Kemp Road. VPA 32 is designated for Low Density Residential use.

Thoroughfare access is currently dependent on the unimproved segment of Kemp Road along the northern border, where it is considered a minor collector. Upgrading and realignment of Kemp Road at that location should be part of any major development within this VPA.

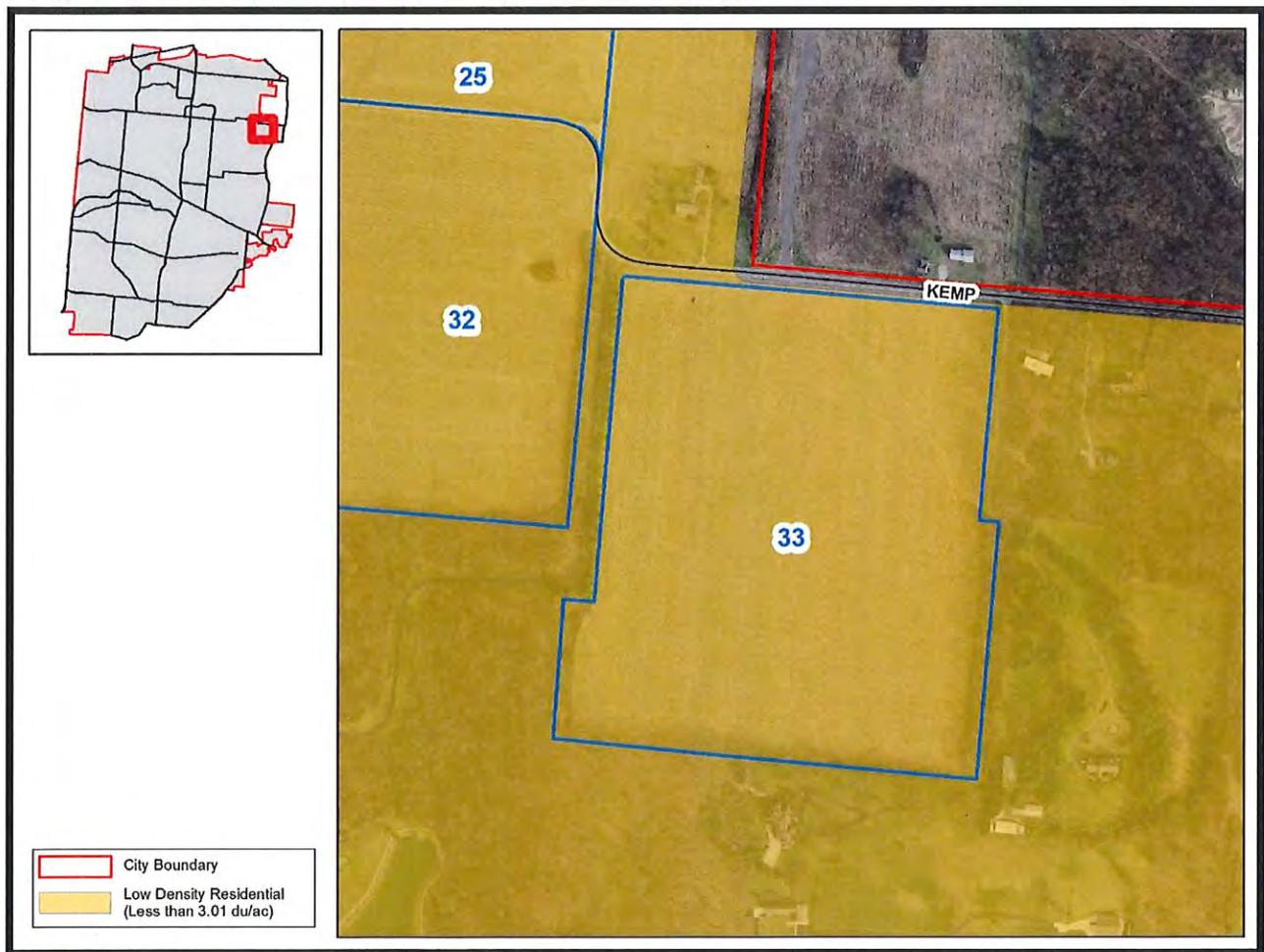
Small creeks run from north to south through the western portion of VPA 32, but none are designated regulatory floodplain.



Vacant Planning Area 33

VPA 33, which is approximately 37 acres, is one of the easternmost VPAs in the City, surrounded by agricultural land in the Township to the north, and large lot low density residential to the south, east and west. VPA 33 is designated for Low Density Residential.

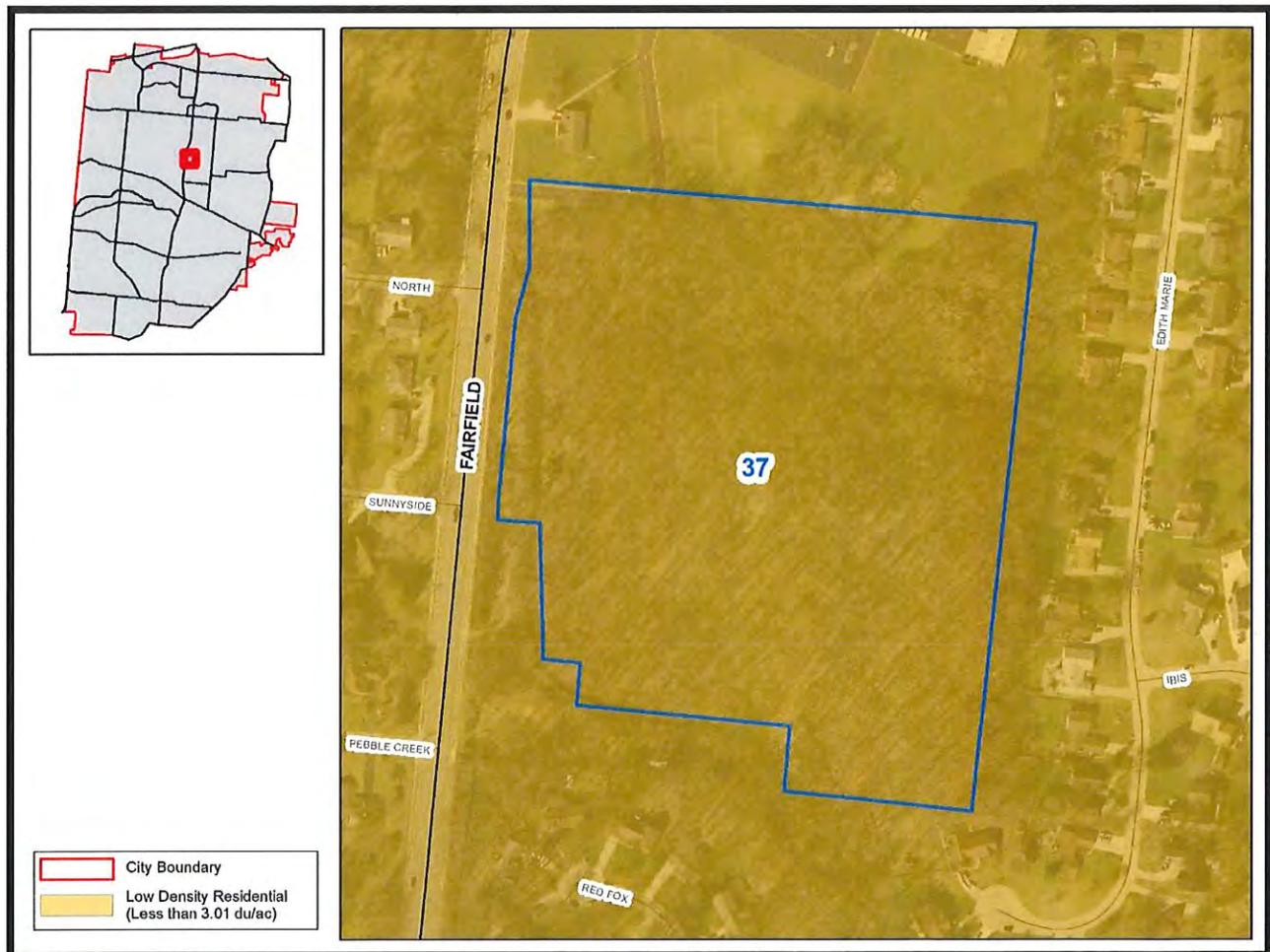
Thoroughfare access is from Kemp Road, an unimproved minor arterial, where it is approximately 3 miles to access either I-675 or US 35. Road improvements would be necessary for more intense use of VPA 33.



Vacant Planning Area 37

VPA 37, which is approximately 17 acres, is located south of the ~~Beavercreek-Be Hope Church of the Nazarene~~ along the east side of North Fairfield Road. Across North Fairfield Road to the west is the Sunny Acres residential plat. To the south is the Red Fox Woods residential plat and the Cox Brothers and Edinburgh Place plats are to the east/southeast. VPA 37 is designated for Low Density Residential use for compatibility with surrounding land use.

Roadway access must accommodate the locally designated regulatory floodplain of the creek that runs north to south along the western border of the VPA.

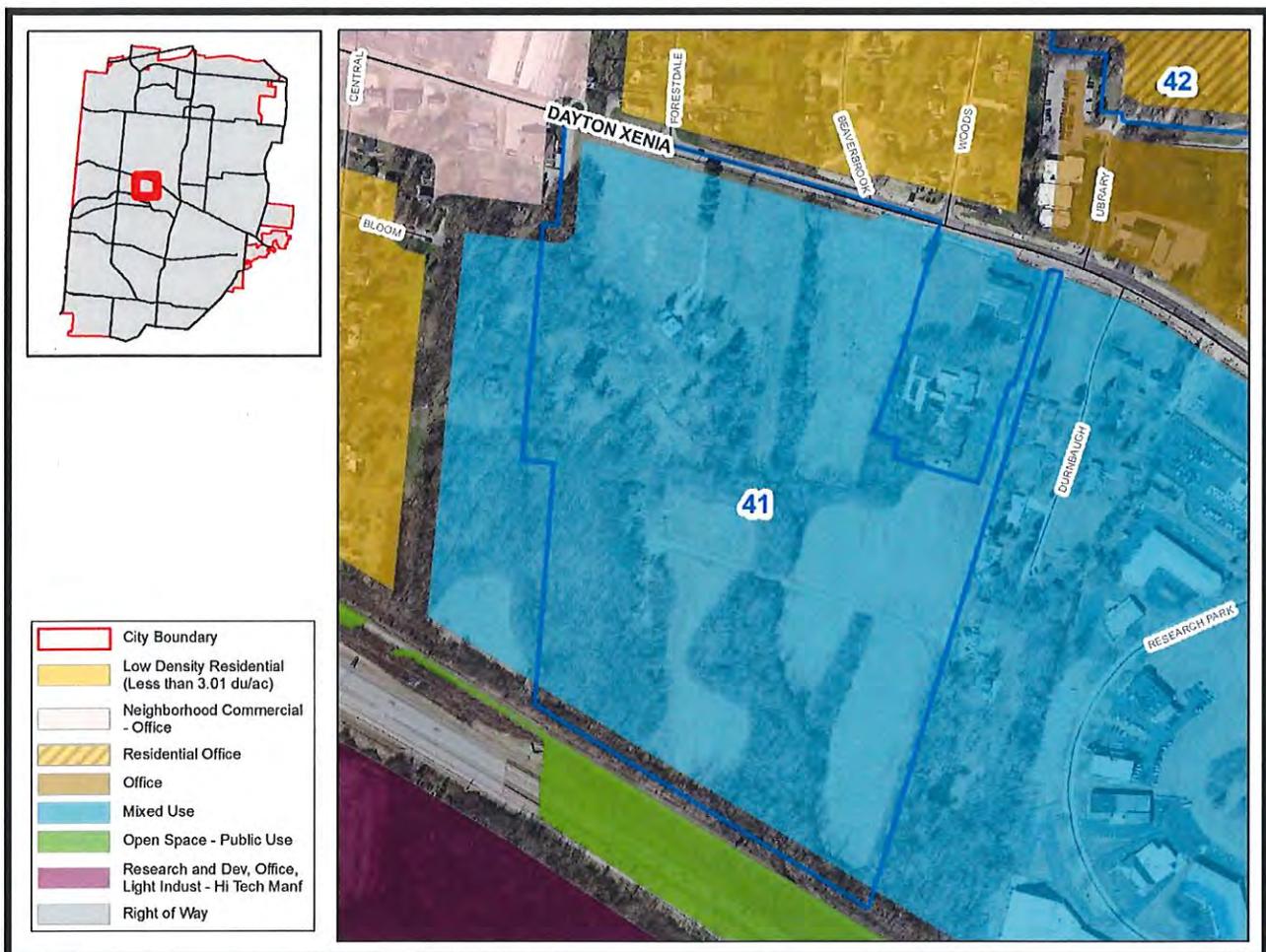


Vacant Planning Area 41 (PDA)

VPA 41, which is approximately 44 acres, is one of the last remaining vacant areas left for development along Dayton-Xenia Road. It is located between the Knollwood Estates, Section 3 residential plat to the west and the South Haven residential plat to the east. The south side borders the Creekside Trail bike path and with visibility from U.S. 35. Across Dayton-Xenia Road to the north is the Knollwood Estates residential plat.

VPA 41 is designated for ~~Research and/or Office~~ **Mixed Use**. This use designation is a continuation of the designation for the development to the east that contains the police station and the City's administrative offices. Development within this VPA should provide adequate screening and/or buffering where VPA 41 borders Low Density Residential uses.

Thoroughfare access is for any development within this VPA should be primarily from Dayton-Xenia Road, ~~which is anticipated to be widened in 2018. Unless redeveloped, local street access from the adjacent existing plats is nonexistent, except for Bloom Drive to the west~~ While there are no local streets directly connected to this VPA, direct connection to Research Park Drive, as well as the utilization of Creekside Trail should be highly considered with any development project.

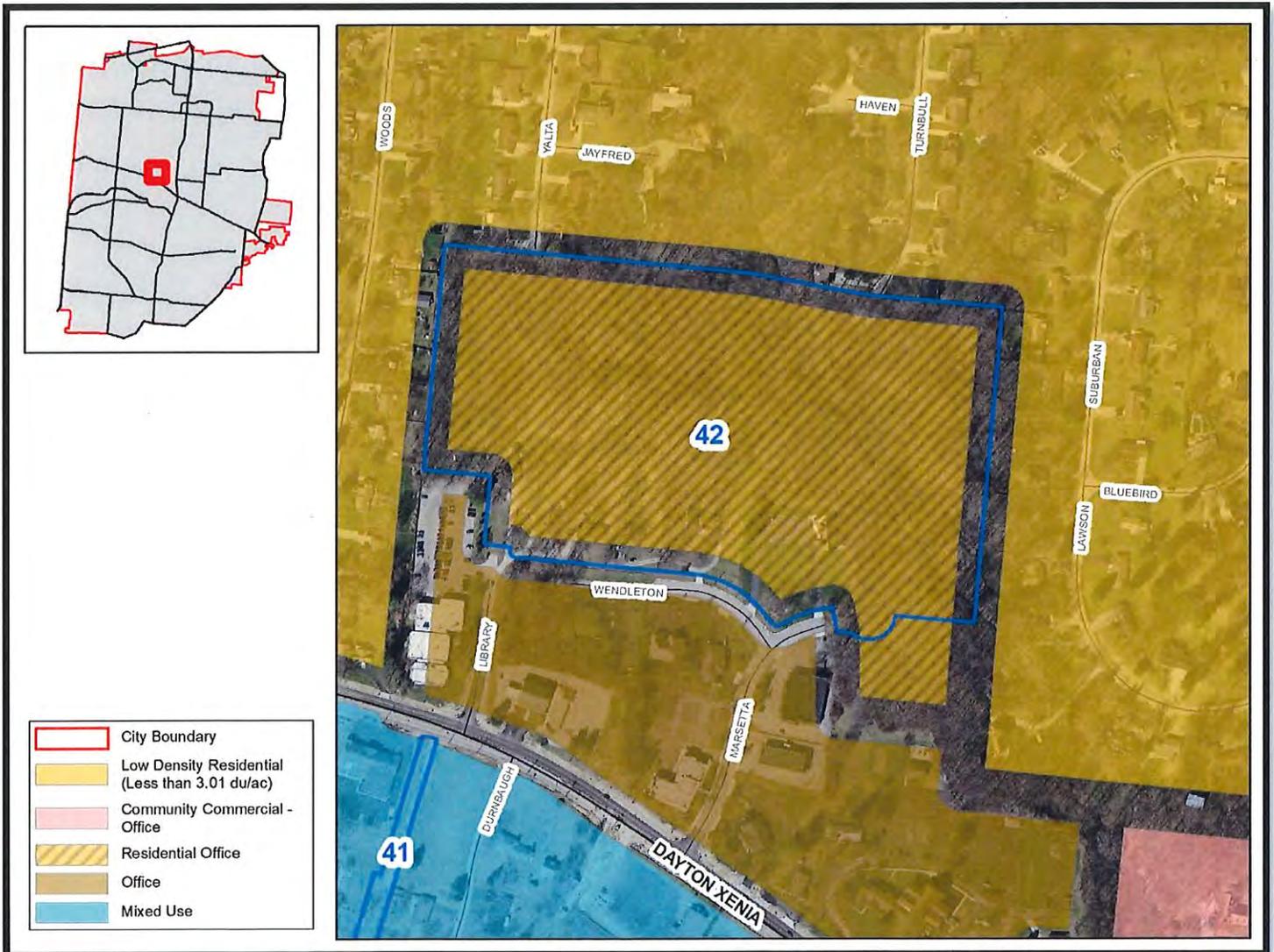


Vacant Planning Area 42

VPA 42, which is approximately 21 acres, is north of Marsetta Drive and Wendleton Lane in the Rest Haven (commercial/office) plat, the Peace Lutheran Church, the Fifth/Third Bank, and the Greene County Public Library. It is south of the Tamalor Woods and Rest Haven residential plats, west of Country Acres, Section 1, and east of Knollwood Estates. VPA 42 is designated for Residential Office development.

Thoroughfare access is adequate for the designated use given both Marsetta Drive and Wendleton Lane are designed to collector road standards (60 foot wide right-of-way) that in turn access Dayton-Xenia Road. Local street access could occur via a southward extension of Yalta Drive from the north for Low Density Residential development or Residential-Office.

In order to screen/buffer any more intense office use from the adjacent Low Density Residential plats to the west, north and east, any development should maintain the existing woods to the most practical extent possible.

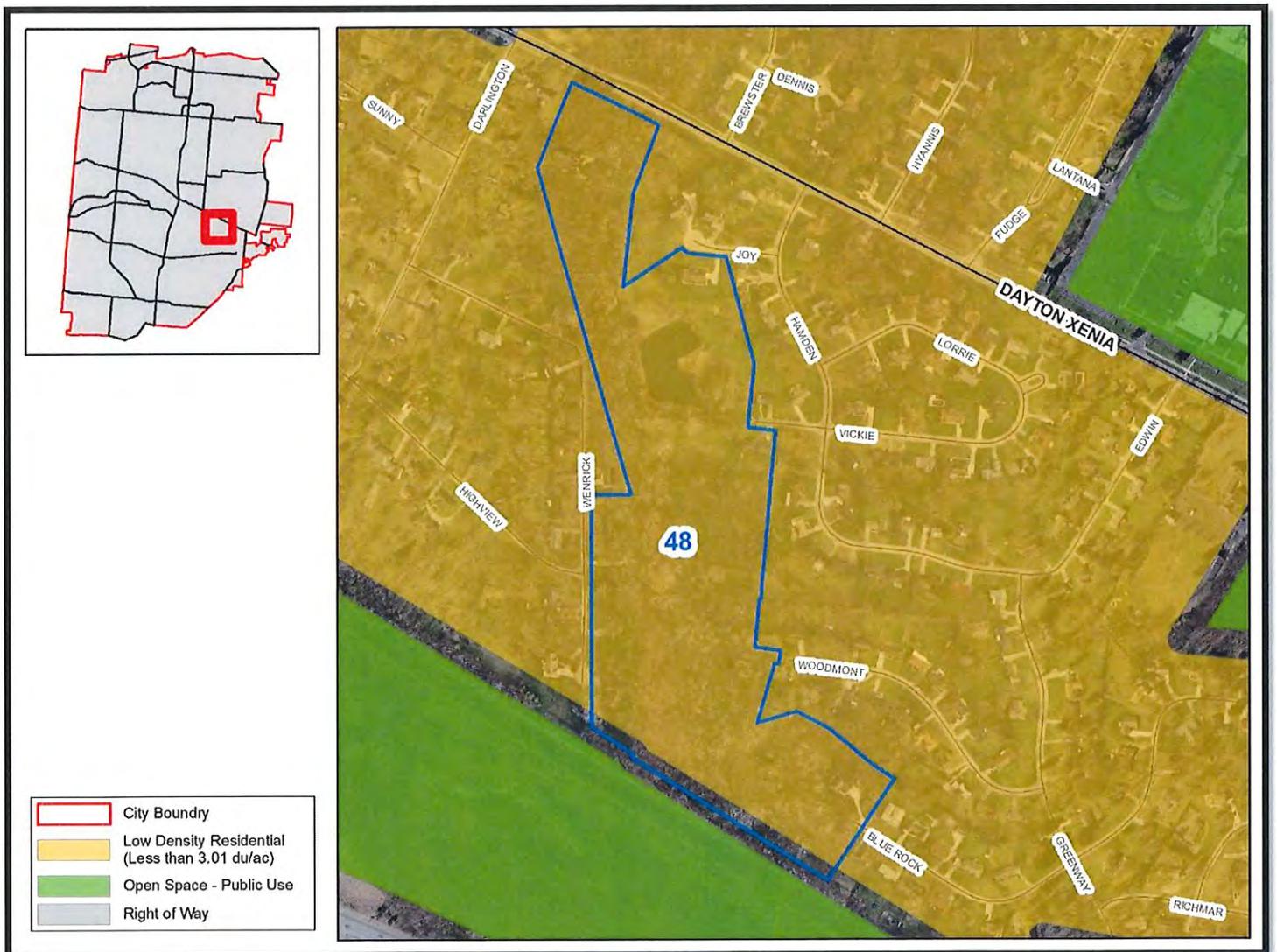


Vacant Planning Area 48

VPA 48, which is approximately 33 acres, is a collection of properties located south of Dayton-Xenia Road. It is between single family residential plats; Highview to the west and Ferguson Estates to the east. The southern border of VPA 48 abuts Creekside Trail.

If further developed, VPA 48 is classified as Low Density Residential, preferably at the lower end of the density range given that Bull Skin Run bisects it north to south.

There is a locally designated floodplain of the creek that flows north to south through VPA 48 on its way to the Little Beaver Creek south of Creekside Trail which limits developable area.



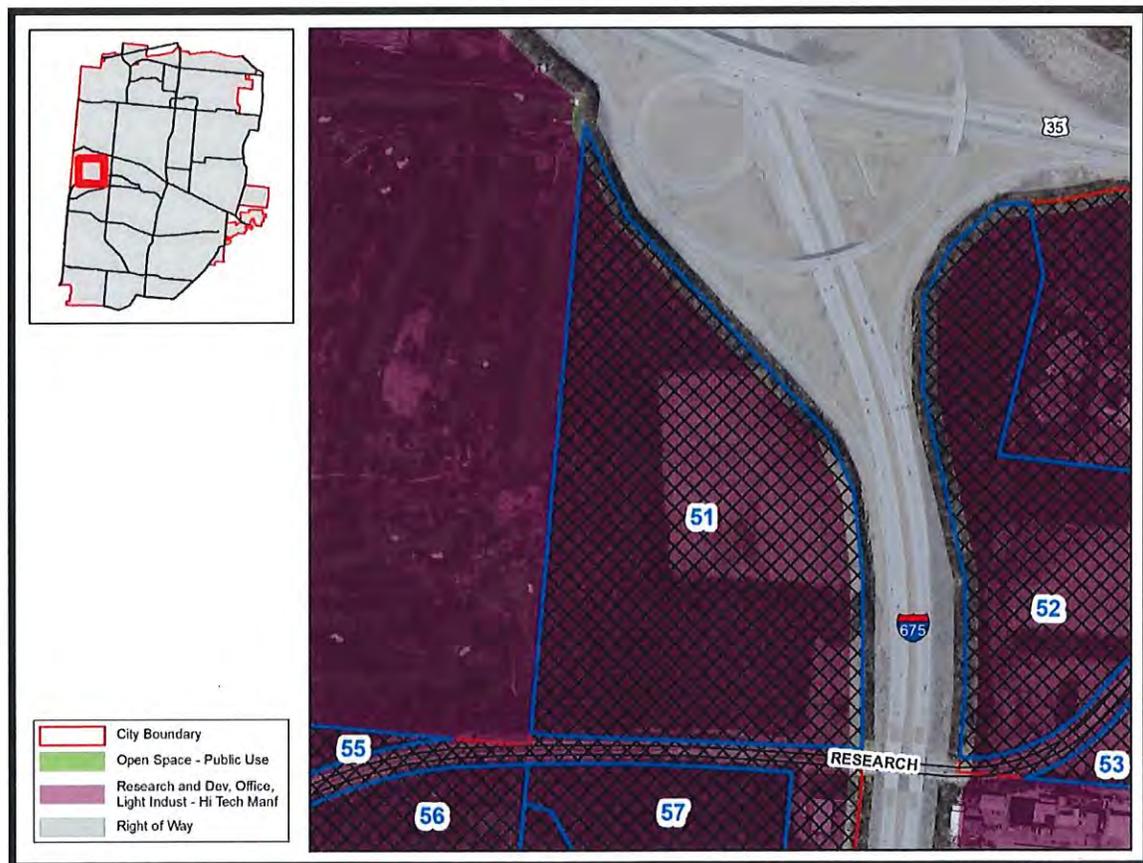
Vacant Planning Area 51

VPA 51, which is approximately 54 acres, is a triangular-shaped property located southwest of the I-675/U.S. 35 interchange within Miami Valley Research Park. It is bordered to the west by the Walnut Grove Country Club. Frontage is along the north side of Research Boulevard (S.R. 835) all across the southern border.

VPA 51 is designated entirely for Research and Development -- Office, Light Industrial - High Tech. Manufacturing development.

Thoroughfare access is facilitated by Research Boulevard (S.R. 835). From its location, VPA 51 is approximately 2.0 miles from the partial interchange at U.S. 35 and 2.8 miles from the I-675/Indian Ripple Road full interchange. The Thoroughfare Plan does, however, recommend that a minor collector road be built through VPA 51 to connect Linden Avenue to the north and Research Boulevard to the south, the existing segment of which now serves as a driveway access to Universal Energy Systems, Incorporated. It would, however, require acquisition of right-of-way across the northeast corner of Walnut Grove Country Club.

A small, narrow portion of floodplain fringe exists along the southern border of the VPA.

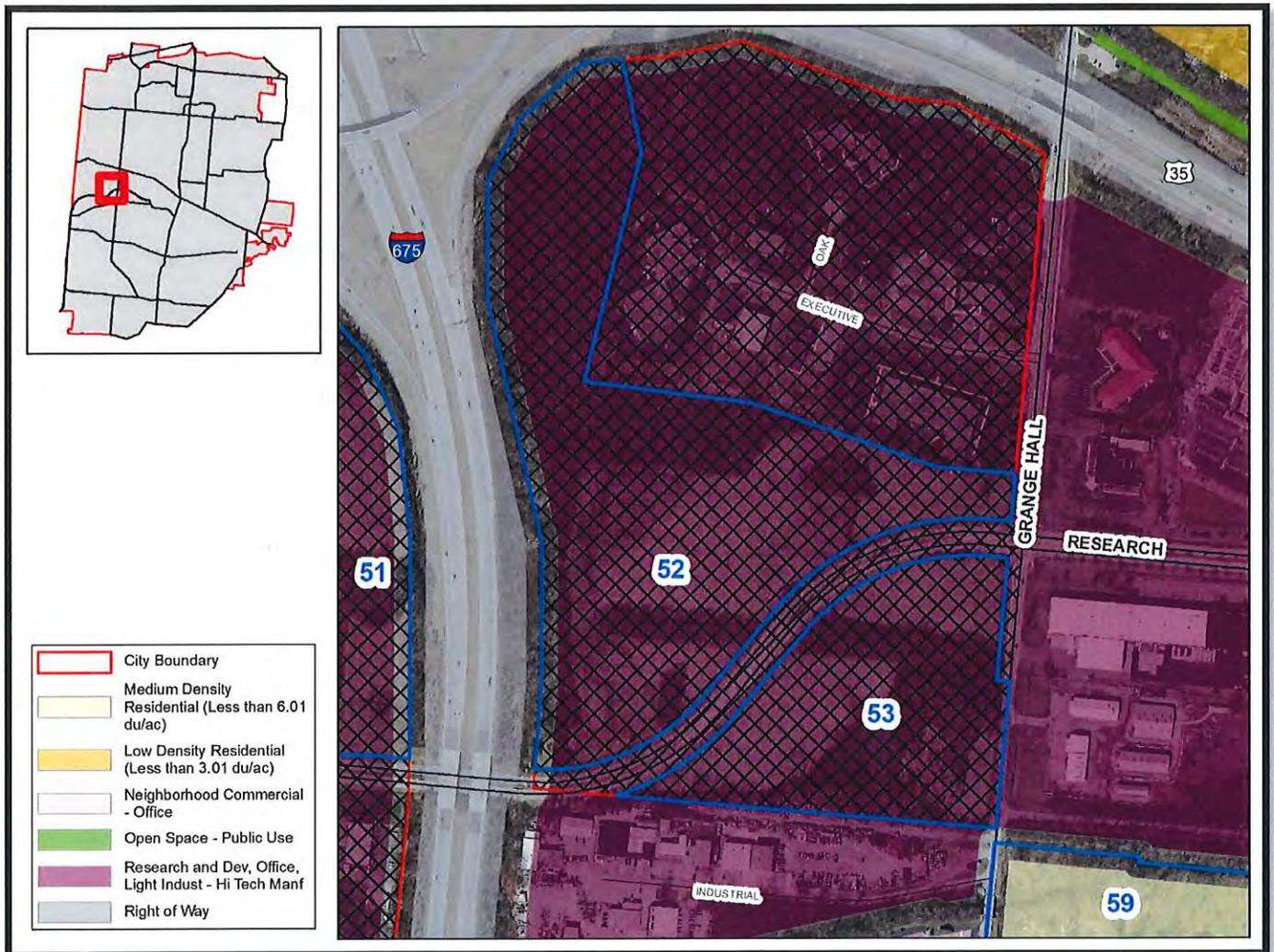


Vacant Planning Area 52

VPA 52, which is approximately 34 acres, is located north of Research Boulevard, between I-675 to the west and Grange Hall Road to the east. The Apple Valley Business Park is to the north. It is designated for Research and Development -- Office, Light Industrial - High Tech. Manufacturing.

Thoroughfare access to VPA 52 is via Research Boulevard along the southern border. At that location, it is 1.4 miles from the partial interchange at U.S. 35 and 1.6 miles from the partial interchange with U.S. 35 at Dayton-Xenia Road/Linden Avenue. Otherwise, it is approximately 3.0 miles from the I-675 full interchange at Indian Ripple Road.

A narrow portion of VPA 52 is located within the floodplain of the Little Beaver Creek.

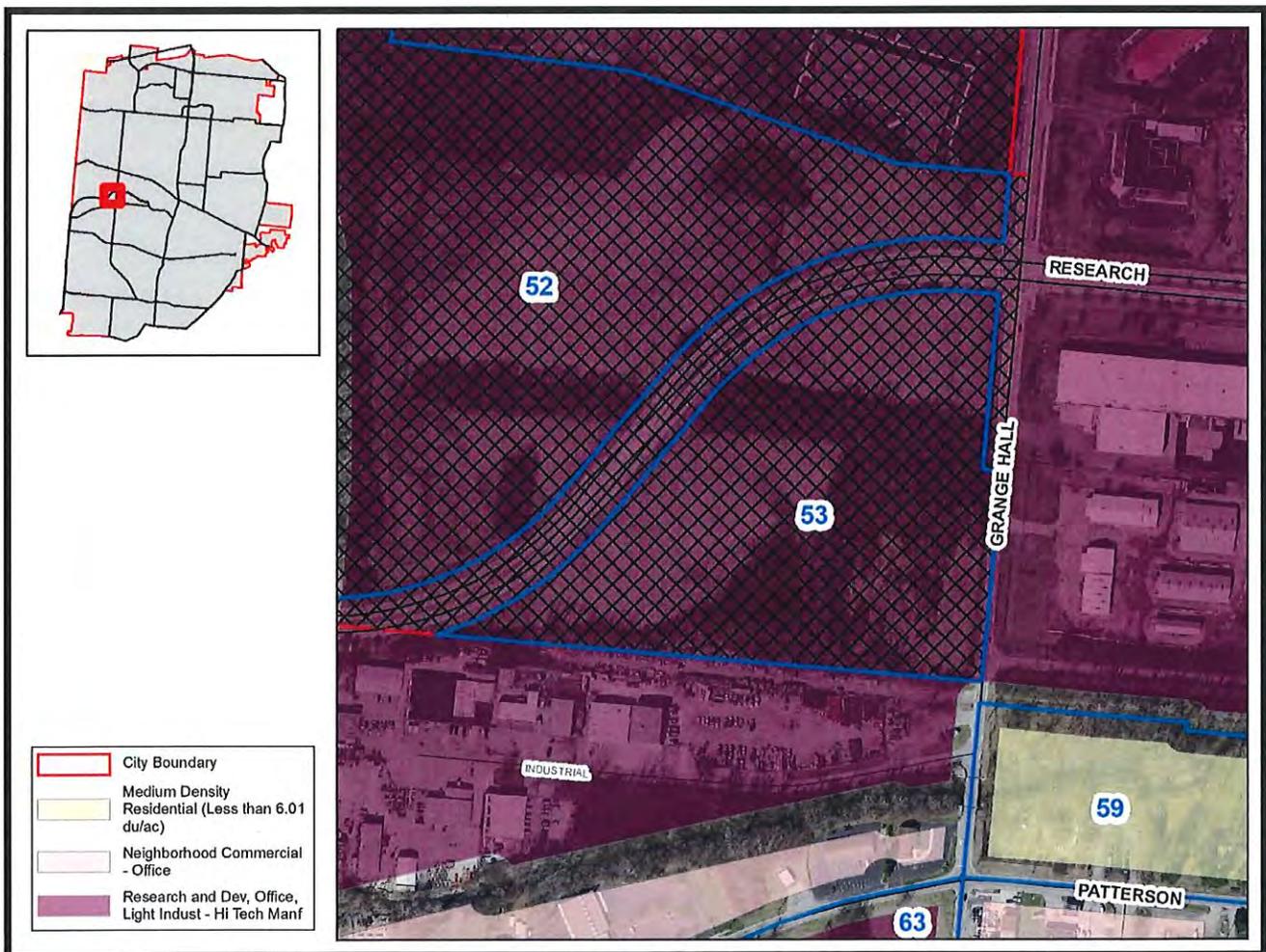


Vacant Planning Area 53

VPA 53, which is approximately 15 acres, is a triangular-shaped area in Research Park that is located southeast of the I-675/U.S. 35 interchange. It is bordered along the northwest side by Research Boulevard, along the east side by Grange Hall Road, and to the south by the Woodhaven Industrial Park on Industrial Lane. VPA 53 is designated for Research and Development --Office, Light Industrial - High Tech. Manufacturing uses. Development of such uses would be compatible with the same types of uses that surround the VPA.

Thoroughfare access can occur from Research Boulevard and Grange Hall Road. From either road, access to U.S. 35 partial interchanges with Research Boulevard and Linden Avenue/ Dayton-Xenia Road is 1.4 miles away. Grange Hall Road should be upgraded in conjunction with VPA 53 development.

Nearly all of VPA 53 is located within the floodplain of the Little Beaver Creek.



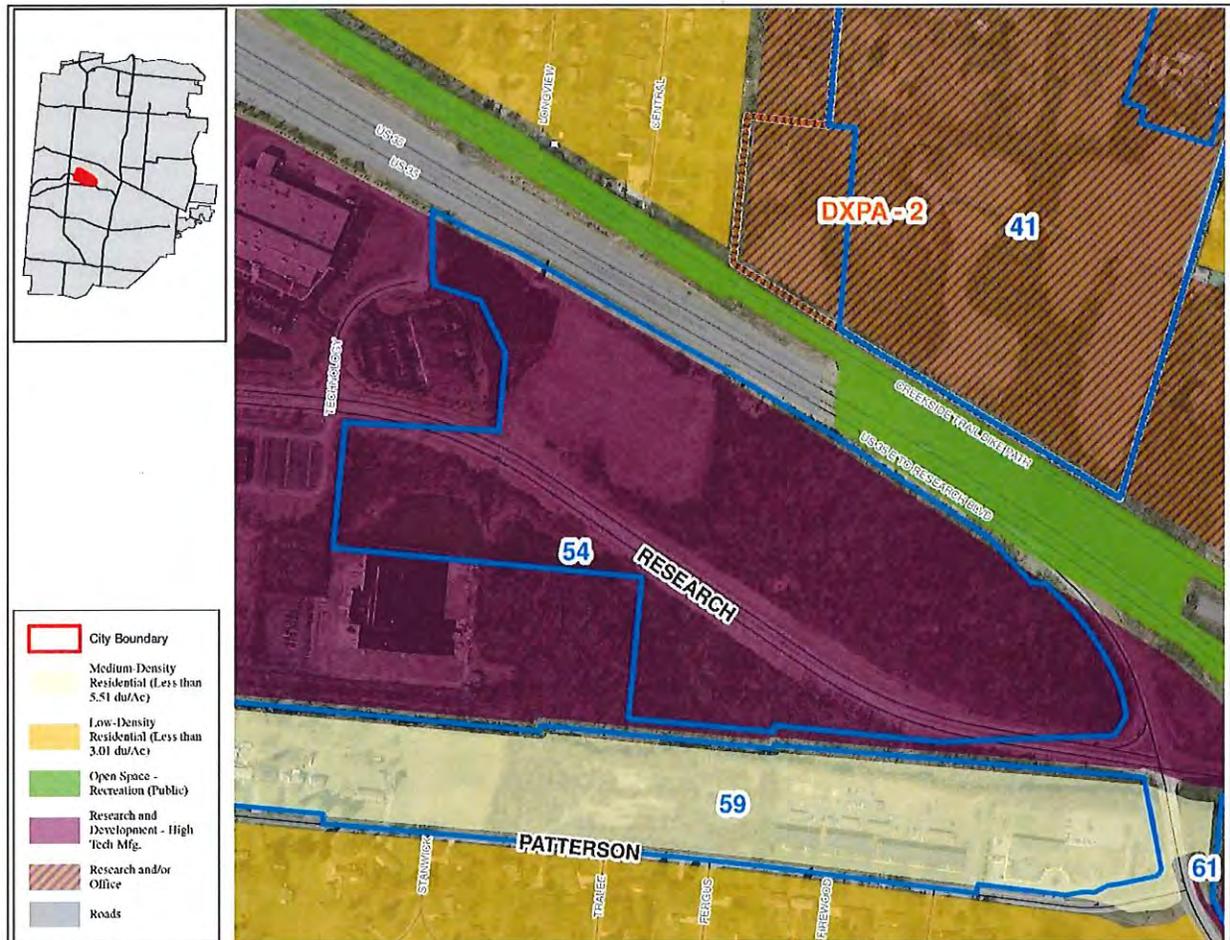
Vacant Planning Area 54

VPA 54, which is approximately 48 acres, is bordered by Research Boulevard to the south, U.S. 35 to the north, Technology Way to the west, and the eastbound off-ramp of the Research Boulevard/U.S. 35 partial interchange to the east.

VPA 54 is designated for Research and Development - High Tech. Manufacturing use. Because of its location within Miami Valley Research Park, and adjacent to the west and south by the same types of uses are some other supportive reasons for the uses designated for VPA 54.

Thoroughfare access for VPA 54 is provided by Research Boulevard and Grange Hall Road. VPA 54 is approximately 1.5 miles from the U.S. 35/ Dayton-Xenia Road partial interchange and 0.8 miles from the interchange at U.S. 35/ North Fairfield Road.

The portion of VPA 54 south of Research Boulevard is located entirely within the floodplain.



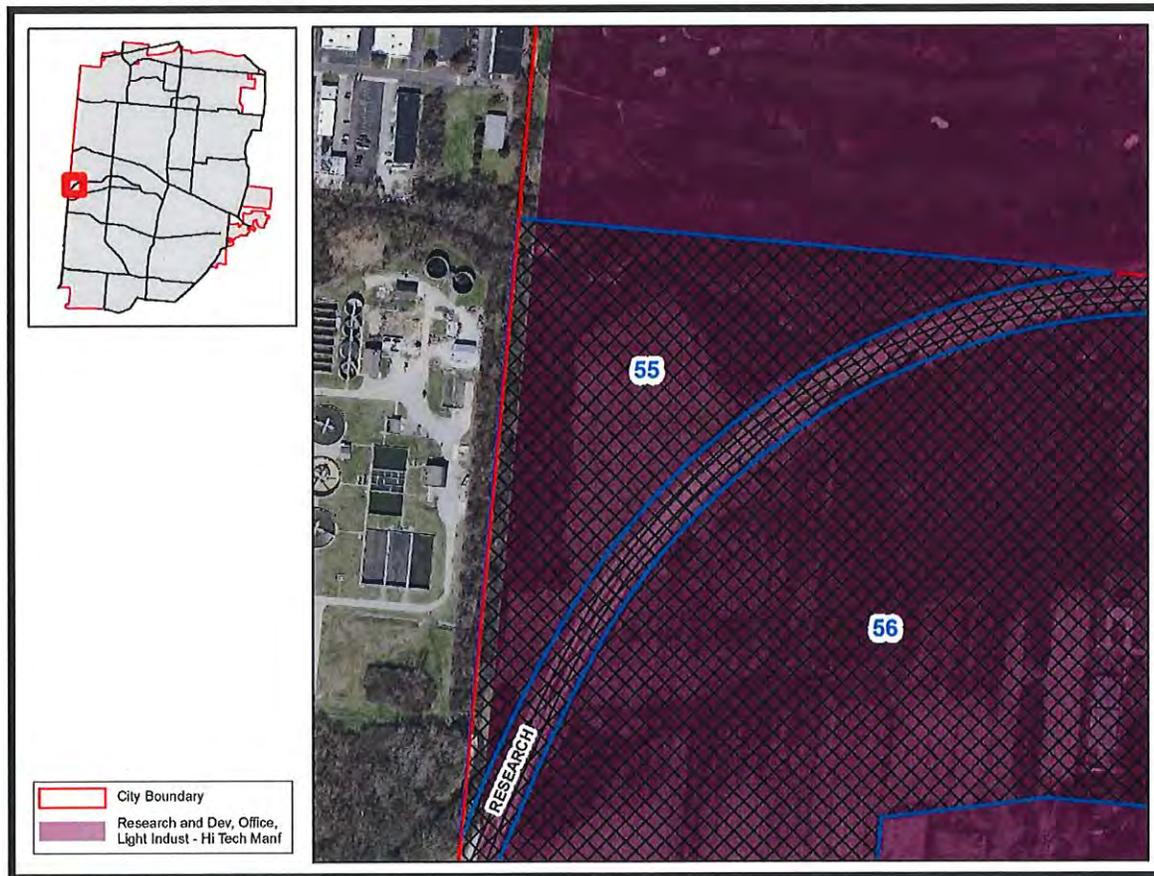
Vacant Planning Area 55

VPA 55, which is approximately 20 acres, is a triangular-shaped area located along the northwest side of the curve in Research Boulevard at the western border of the City. The western edge is the Montgomery/Greene County border and the Walnut Grove Country Club is to the north.

VPA 55 is designated for Research and Development -- Office, Light Industrial - High Tech. Manufacturing use. The same types of uses exist to the northwest on Plainfield Drive in the adjacent City of Kettering and in VPA 56 to the southeast. The golf course to the north is compatible as a buffer to urban residential uses in Riverside far to the northwest.

Thoroughfare access is provided along the southeast border by Research Boulevard (S.R. 835). At that location along the principal arterial, it is approximately 2.3 miles to the full interchange at I-675 and Indian Ripple Road and 2.5 miles from the U.S. 35/Dayton-Xenia Road partial-interchange to the north.

All of VPA 55 is located within the floodplain of the Little Beaver Creek, which flows through the area from west to east.



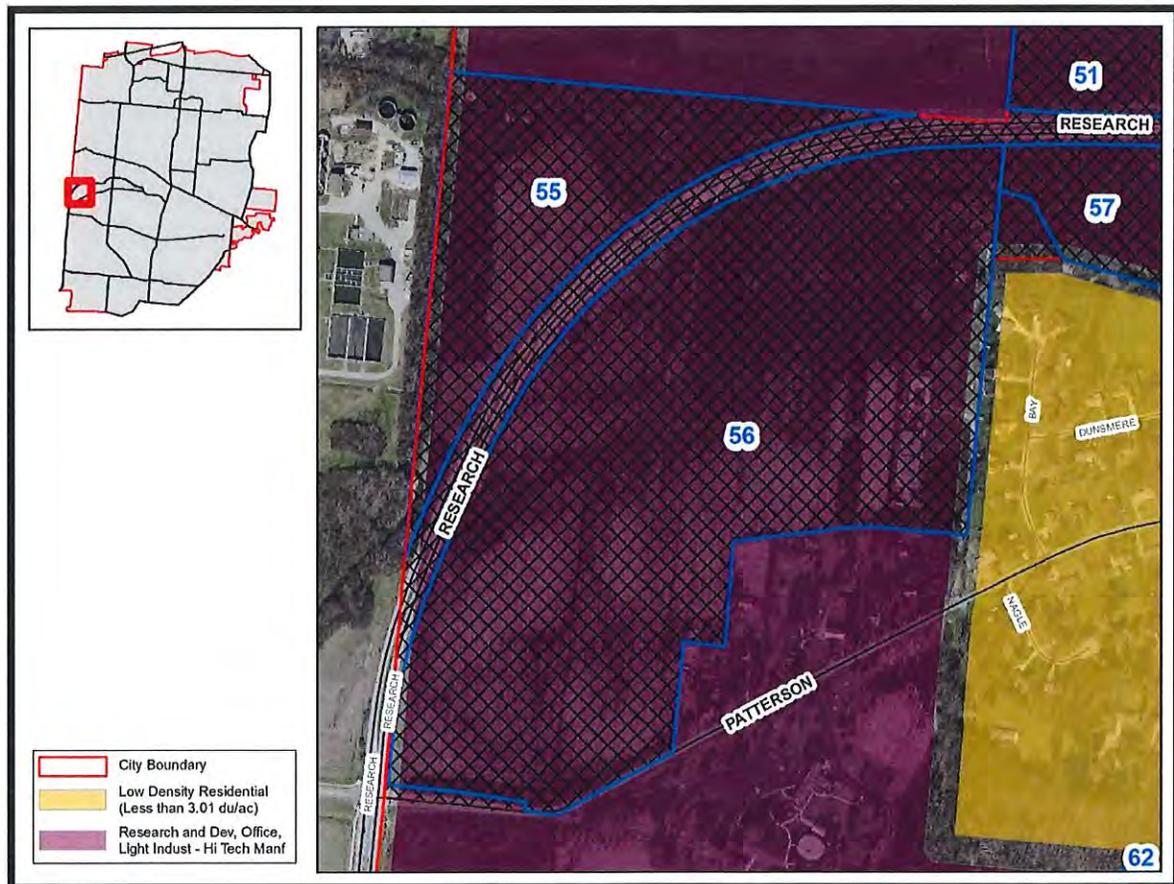
Vacant Planning Area 56

VPA 56, which is approximately 67 acres, is located north of Patterson Road across from Mount Saint John, along the southeast side of the curve in Research Boulevard, and west of VPA 57 and the Patterson Road Estates residential plats.

All of VPA 56 is designated for Research and Development -- Office, Light Industrial - High Tech. Manufacturing. An effective type of screening would be necessary to buffer any designated uses from home sites to the east and from any future remaining homes along Patterson Road in the VPA if-while they are retained-used as Low Density Residential-use.

Thoroughfare access is provided by Research Boulevard (S.R. 835). Access to Research Boulevard is controlled by pre-designated cuts in the grassed median where left turn lanes have already been installed. Access could occur onto Patterson Road along the southern border of VPA 56, although it is not recommended to mix traffic from this designated use area with that associated with the adjacent residential area. Patterson Road is only recommended for emergency access to VPA 56. VPA 56 is approximately 2 miles from the U.S. 35/Dayton-Xenia Road partial interchange to the west and 2.2 miles from the I-675/Indian Ripple Road full interchange to the south.

All of VPA 56 is located within the floodplain of the Little Beaver Creek. Thus, any development will need to address code requirements for flood proofing and/or runoff control.



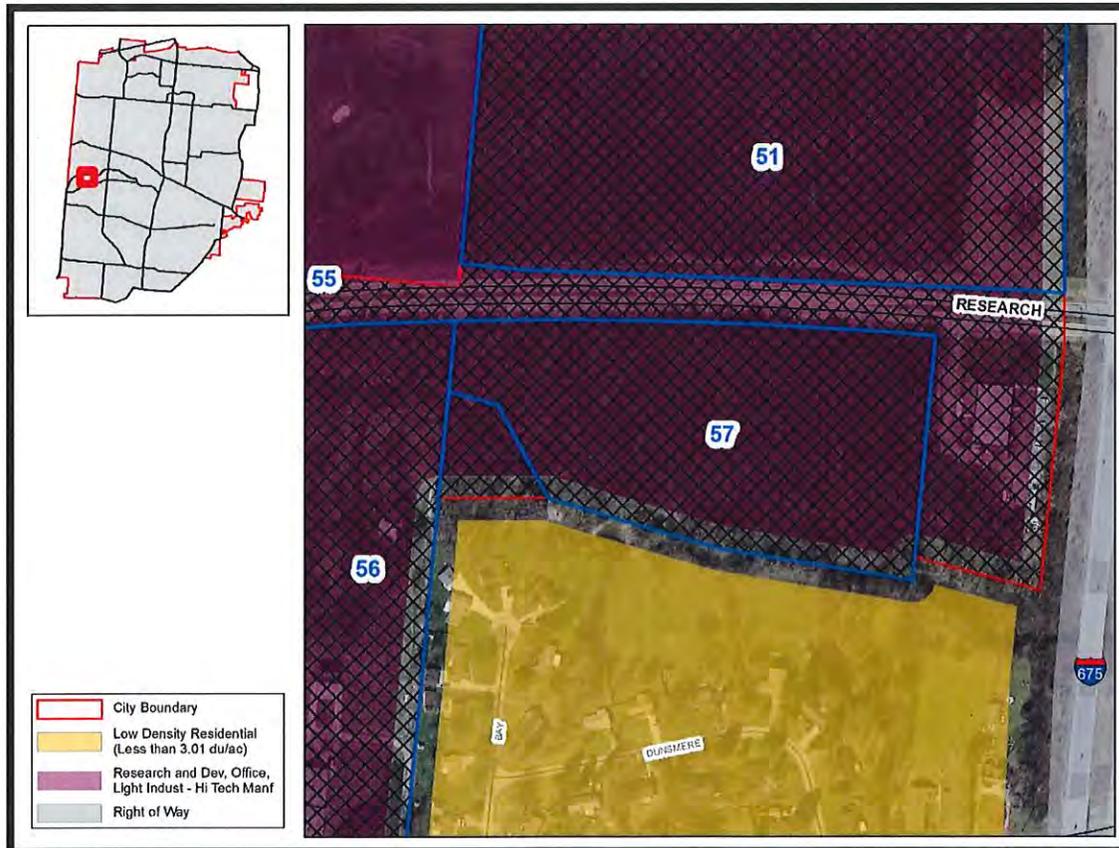
Vacant Planning Area 57

VPA 57, which is approximately 45-12 acres, is one of the smaller vacant parcels in Research Park. It is a rectangular-shaped area bordered by Research Boulevard to the north, the Patterson Road Estates residential plat and the Little Beaver Creek to the south, I-675 to the east, and VPA 56 to the west. The residential designated portion (Patterson Road Estates, Section 5) is located between the Little Beaver Creek at the north and the existing Patterson Road Estates lots to the south.

VPA 57 is designated most suitable for Research and Development -- Office, Light Industrial - High Tech. Manufacturing uses. The area south of Little Beaver Creek is designated Low Density Residential, so appropriate screening should be considered when developing this site. The presence of the Little Beaver Creek across the southern border will help buffer the designated use to the north from the existing residential plat to the south.

Thoroughfare access is entirely from Research Boulevard along the northern border. Access is controlled by pre-designated cuts in the median for provision of left-turn movements. VPA 57 is approximately 2 miles from the U.S. 35/Dayton-Xenia Road partial interchange and 2.8 miles away from the I-675/Indian Ripple Road full interchange.

All of VPA 57 is located within the floodplain of the Little Beaver Creek. Thus, any development must meet requirements for floodplain development and runoff control.



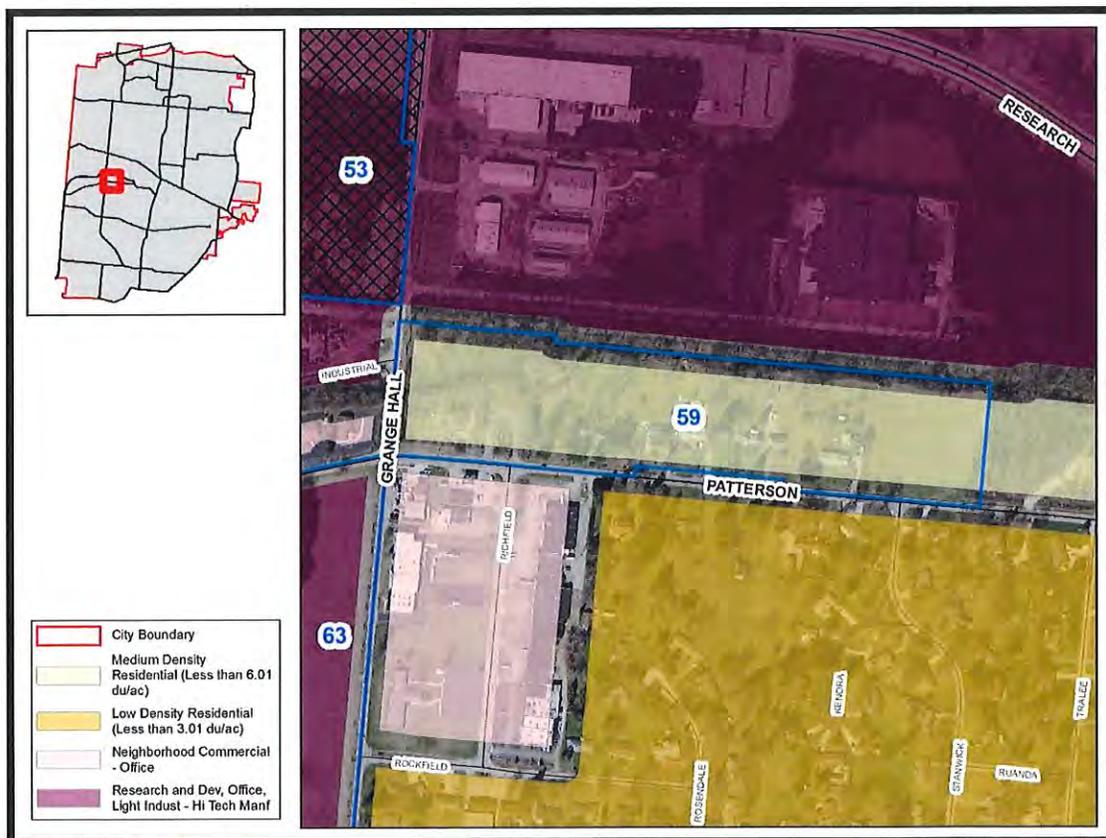
Vacant Planning Area 59

VPA 59, which is approximately 35-15 acres, is a partially-developed, narrow, rectangular strip of properties that is located along the north side of Patterson Road. It is south of the Miami Valley Research Park, east of Grange Hall Road, and west of the intersection of Patterson Road and Research Boulevard. Several single and multi-family home sites (Gardens Plat) exist throughout VPA 59.

VPA 59 is designated for Medium Density Residential partly because it would be compatible with apartments that exist adjacent to the east and residential uses to the south, but also because of its narrow configuration and small size in-relationrelative to the extensive amount of site preparation involved are conditions that can be addressed by that scale of development and use. Patterson Road would serve as a physical edge division to buffer such use from the existing residential plat (Woodhaven) to the south and the Little Beaver Creek would buffer it from the industrial uses to the north.

Thoroughfare access is via Patterson Road, an unimproved residential collector.

More than one-half of VPA 59 is located within the floodplain or floodway of the Little Beaver Creek which flows from west to east along the northern border. Thus, any development must satisfy code requirements for flood hazard mitigation and runoff control.



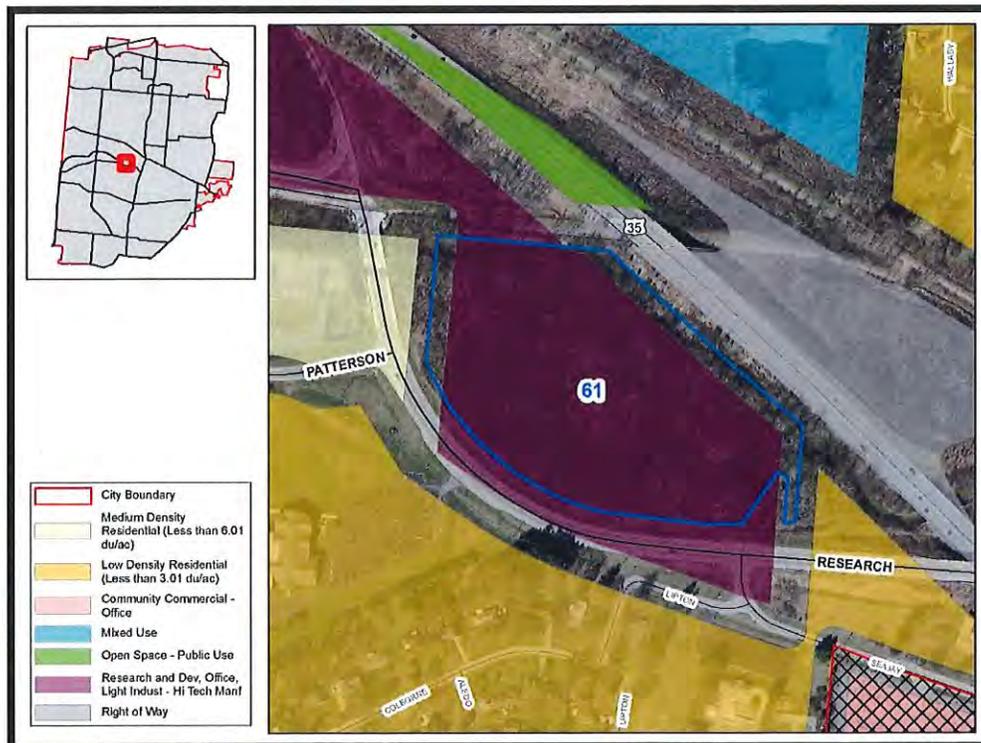
Vacant Planning Area 61

VPA 61, which is approximately 12 acres, is an irregular, curve shaped area made up of a large lot that is located between Patterson Road to the south and the U.S. 35/Research Boulevard to the north. It is bordered by VPA 54 to the northwest, the Greater Dayton Islamic Foundation and Patterson Park Church to the west, the Woodhaven Swim Club and residential plats to the south, a used vehicle dealership to the southeast, and a banking office to the east.

VPA 61 is designated for Research and Development - Office, Light Industrial - High Tech. Manufacturing. Development in this area will have to address floodplain concerns as well as potential impacts to residential development to the south and traffic flow at Research Boulevard and Patterson Road intersection.

Thoroughfare access via the partially improved segment of Patterson Road is supportive of the designation for Research and Development - Office, Light Industrial - High Tech. Manufacturing use given its locational convenience for community as well as freeway accessibility. Thoroughfare access should be designed to align as much as possible with Patterson Park Church access points across the road in order to minimize through traffic disruption.

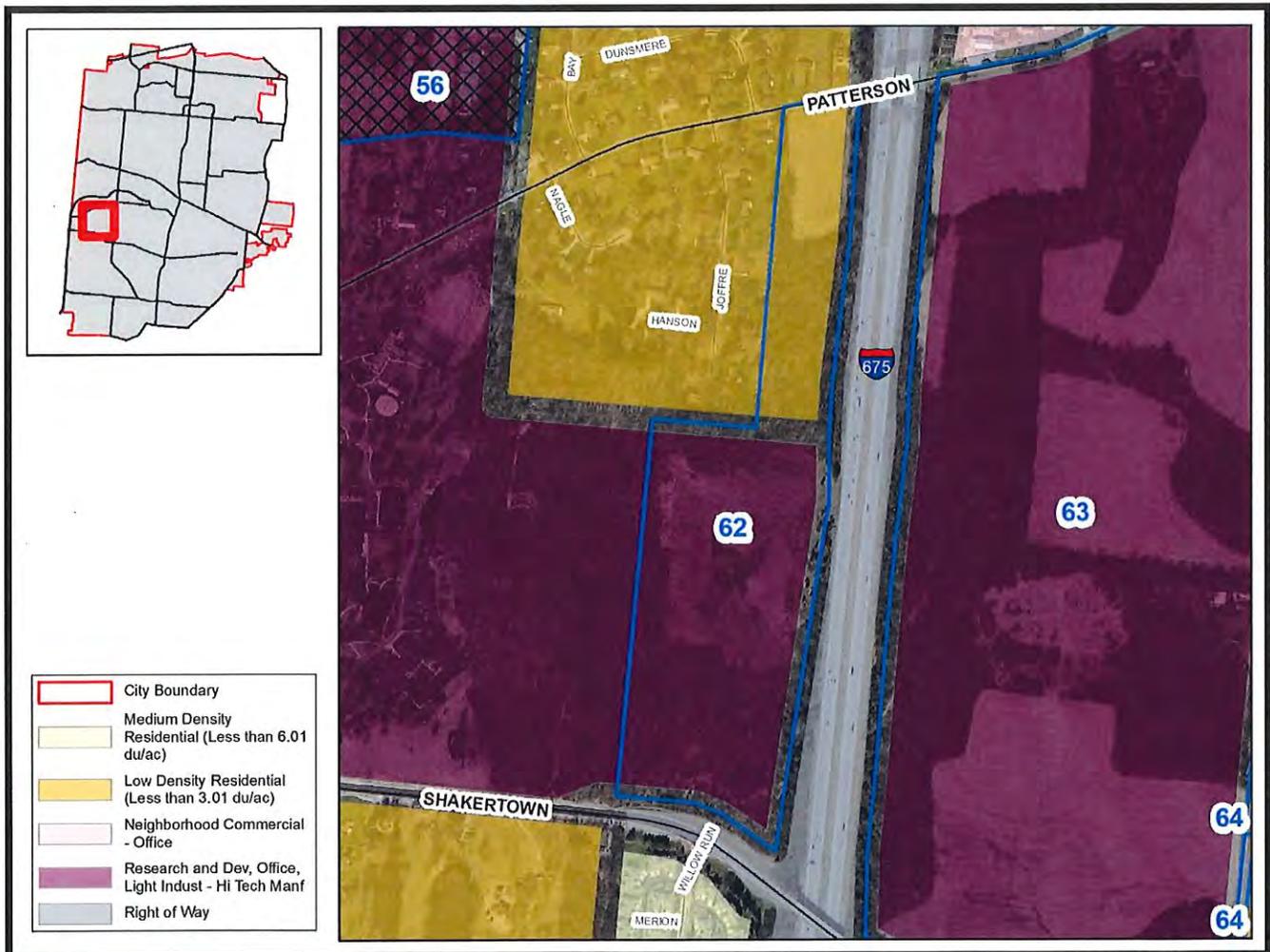
All of VPA 61 is either located within the regulatory floodway or flood-fringe of the Little Beaver Creek. Therefore, any development of VPA 61 will be required to satisfy code requirements for flood hazard mitigation and runoff control without adverse impact. ~~Filling has been slowly occurring on a portion of VPA 61 in preparation for it to become a buildable site by elevating the property out of the floodplain.~~



Vacant Planning Area 62

VPA 62, which is approximately 38 acres, is located between Patterson Road to the north, Shakertown Road to the south, I-675 to the east, along with the Bergamo complex.

VPA 62 is designated partially for Research and Development ~~and~~ Office, Light Industrial ~~and~~ High Tech, Manufacturing and partially for Low Density Residential. This designation is consistent with surrounding land use designations directly across I-675 to the east and to the west by other properties controlled by the Miami Valley Research Park. The Miami Valley Research Park owns land all around the VPA. Any potential cessation of current uses at the Mount Saint John complex may call for the consideration of non-residential uses given that adequate buffering and other features can be provided. Thoroughfare access for VPA 62 is facilitated by Patterson Road to the north, County Line Road to the west, and Shakertown Road to the south.

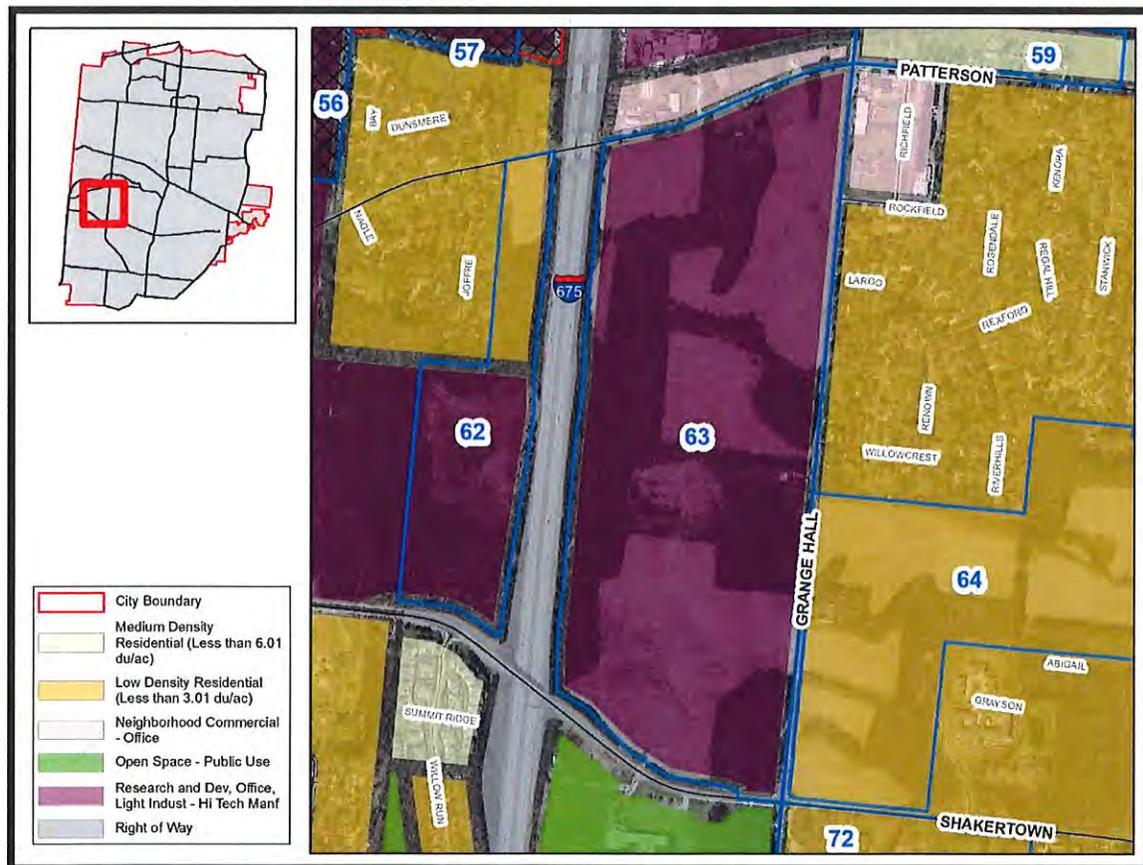


Vacant Planning Area 63

VPA 63, which is approximately 158 acres, is a large rectangular-shaped area in Research Park consisting of a few properties. All but 10 acres of the VPA is owned by Miami Valley Research Foundation. It is bordered by Patterson Road to the north, Shakertown Road to the south, Grange Hall Road to the east, and I-675 to the west. It is adjacent to a mixture of uses along Patterson to the north, Ankeney Middle School to the south, and to Richfield Center commercial/industrial area, Woodhaven residential plat, and VPA 64 to the east.

VPA 63 is one of the larger tracts of land in Beavercreek owned by the Miami Valley Research Foundation and is envisioned by the foundation as being developed in use as part of the Miami Valley Research Park. VPA 63 is designated Research and Development -- Office, Light Industrial - High Tech. Manufacturing, however, location of specific uses and facilities will be contingent on developmental guidelines required to assure compatibility in relation to adjacent surrounding land uses of a different type and intensity.

Thoroughfare access is facilitated by the unimproved collector roads that border it which should be upgraded either prior to, or as part of as a requirement for VPA 63 the development of VPA 63. At a minimum, with increased right-of-way, and through-lane widening and turn-lane additions opposite existing local street intersections should be considered. VPA 63 is conveniently located within close proximity to intersections from freeway access to either I-675 or U.S. 35 via roads of the same or higher functional class.

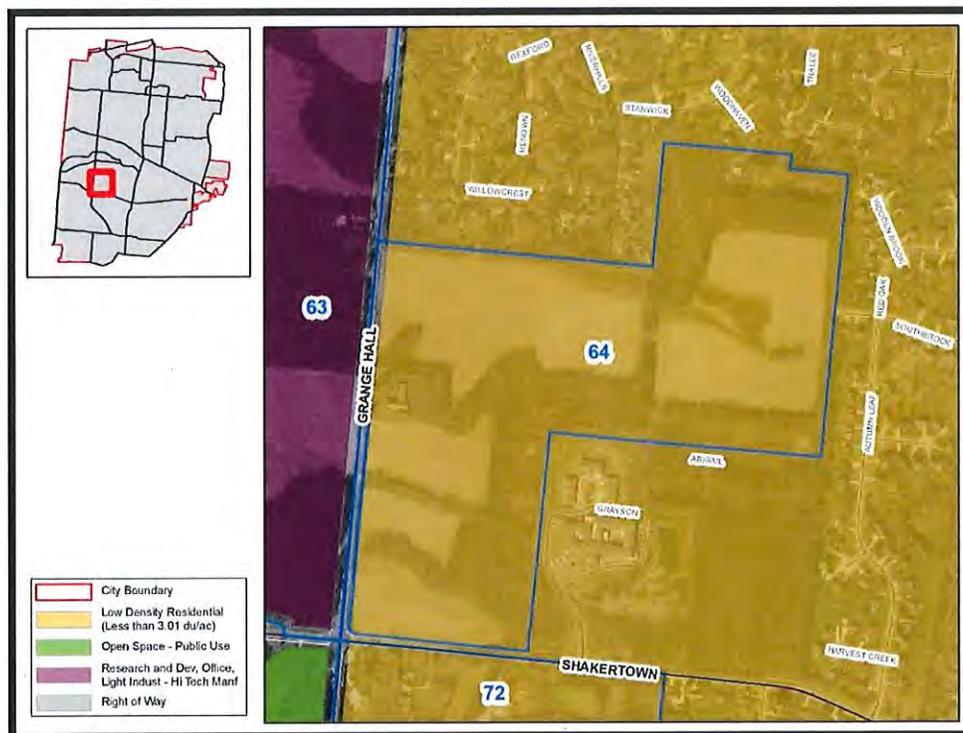


Vacant Planning Area 64

VPA 64, which is approximately 425-86 acres, is bordered by Grange Hall Road to the west, Shakertown Road to the south, the Woodhaven residential plats to the north, and the Autumn Springs residential development to the east. VPA 63 is across Grange Hall Road to the west and VPA 72 is across Shakertown Road to the south.

VPA 64 is designated for low-density residential development. Development in this VPA would need to provide adequate development designs to assure compatibility in relation to adjacent surrounding land uses of a different type and intensity. Some features on the site may lend itself to concentrated areas of higher density development, such as Traditions of Beaver Creek, located just to the southeast of VPA 64, in order to preserve the natural features of the area, so long as the overall density falls within Low Density Residential guidelines.

Thoroughfare access is facilitated by Grange Hall Road to the west and Shakertown Road to the south, both of which are unimproved collectors. Upgrading Grange Hall Road, at least in the form of right-of-way increases and preferably as extensive as through-lane widening and turn-lane additions at local street intersections may be required in conjunction with VPA 64 development. Shakertown Road has seen such upgrades in the last few years, and should continue along Grange Hall Road as development occurs. It is approximately 2 miles from the U.S. 35/Dayton-Xenia Road partial interchange and 2.5 miles away from the I-675/Indian Ripple Road full interchange. Bordering neighborhood streets should be connected to streets that will be provided through VPA 64 development. A cross access easement was included in the approval of Traditions of Beaver Creek for the purposes of inter-connectibility with the vacant land to the north.

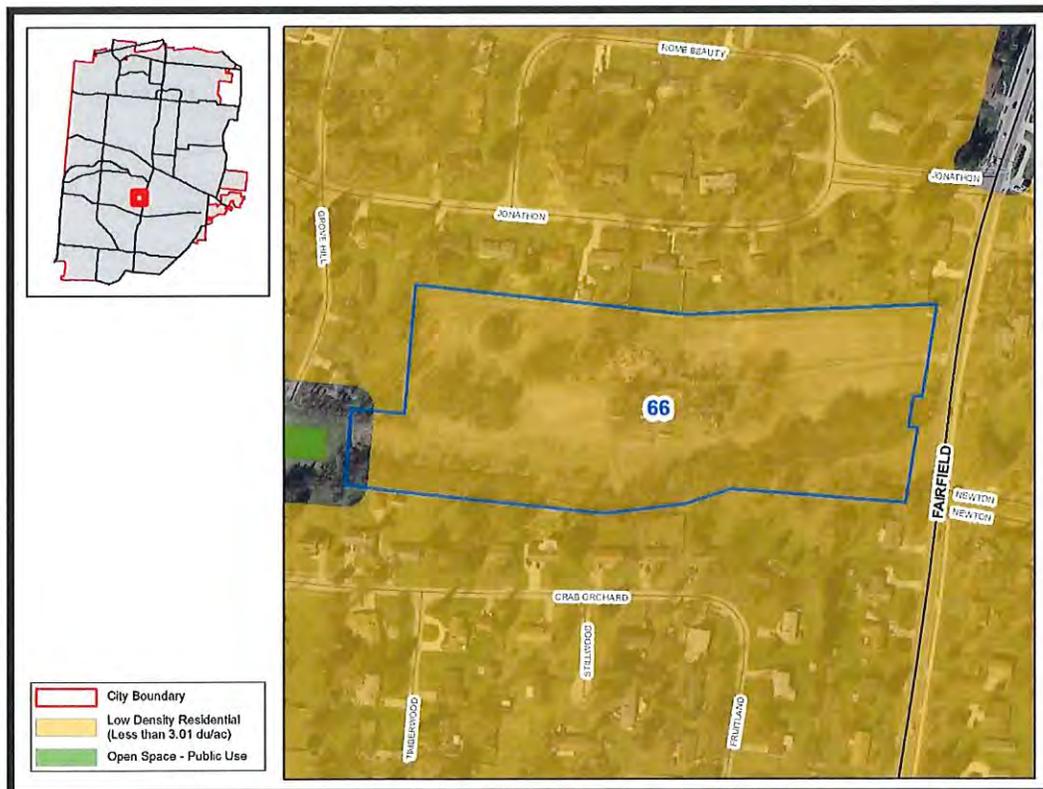


Vacant Planning Area 66

VPA 66, at approximately 12 acres, is one of the four smallest VPAs. Surrounding existing residential developments include Apple Valley Estates plat to the west, north, and east and the Northview Gardens plat to the south. A house and several out buildings exist at the middle of VPA 66. ~~The property is currently being used as an organic farm with periodic Farmer's Market sales.~~

VPA 66 is designated entirely for Low Density Residential development. The designation is made on the basis of compatibility with existing adjacent home sites. Special consideration for densities with higher than low density residential, but lower than the maximum of medium density residential will be given to single-family developments that are constructed with homes clustered near the center and open spaces provided along the perimeter, so long as it is constructed with appropriate buffers and screening provided for the single family residences to both the north and south..

Thoroughfare access is facilitated by frontage onto North Fairfield Road, which is currently being widened and upgraded appropriately as a major arterial of the Thoroughfare Network. VPA 66 is conveniently located within one mile of the U.S. 35/North Fairfield Road intersection. Alignment with Newton Drive to the east would be in locally designated floodplain of the creek and may eliminate what may otherwise be a suitable home site at the southeast corner of VPA 66.



Vacant Planning Area 68

VPA 68, which is approximately 30 acres, is located near the northeast corner of North Fairfield Road and Shakertown Road. It is surrounded by the Wynwood Estates residential plat to the north, the Ballymeade residential development to the east, the Merrick and Fairbrook Estates plats to the south/southwest, Coy Homestead Estates and the Kirkmont Presbyterian Church to the south, and the Northview Gardens plat, and some duplex residences to the west/northwest. A few single-family dwellings occupy VPA 68. It is presumed they will be reused or eliminated if VPA 68 is developed.

VPA 68 is designated for Low Density Residential development. The southeast corner, being floodplain fringe of the creek that flows south to north, is a tributary to the Little Beaver Creek and would most likely be left in its natural state with the development of a future Low Density Residential project.

Thoroughfare access is mostly facilitated by Shakertown Road along the southern border, the location on which is considered an unimproved principal collector. Development of VPA 68 should be required to provide upgrades to Shakertown Road. It is recommended that Newton Drive be extended through VPA 68 to Shakertown Road as a secondary access point for Wynwood Estates.

A portion at the southeast corner is located in the regulatory floodplain of a creek tributary to the Little Beaver Creek. Thus, development in that portion must meet code requirements for flood hazard mitigation and runoff control.



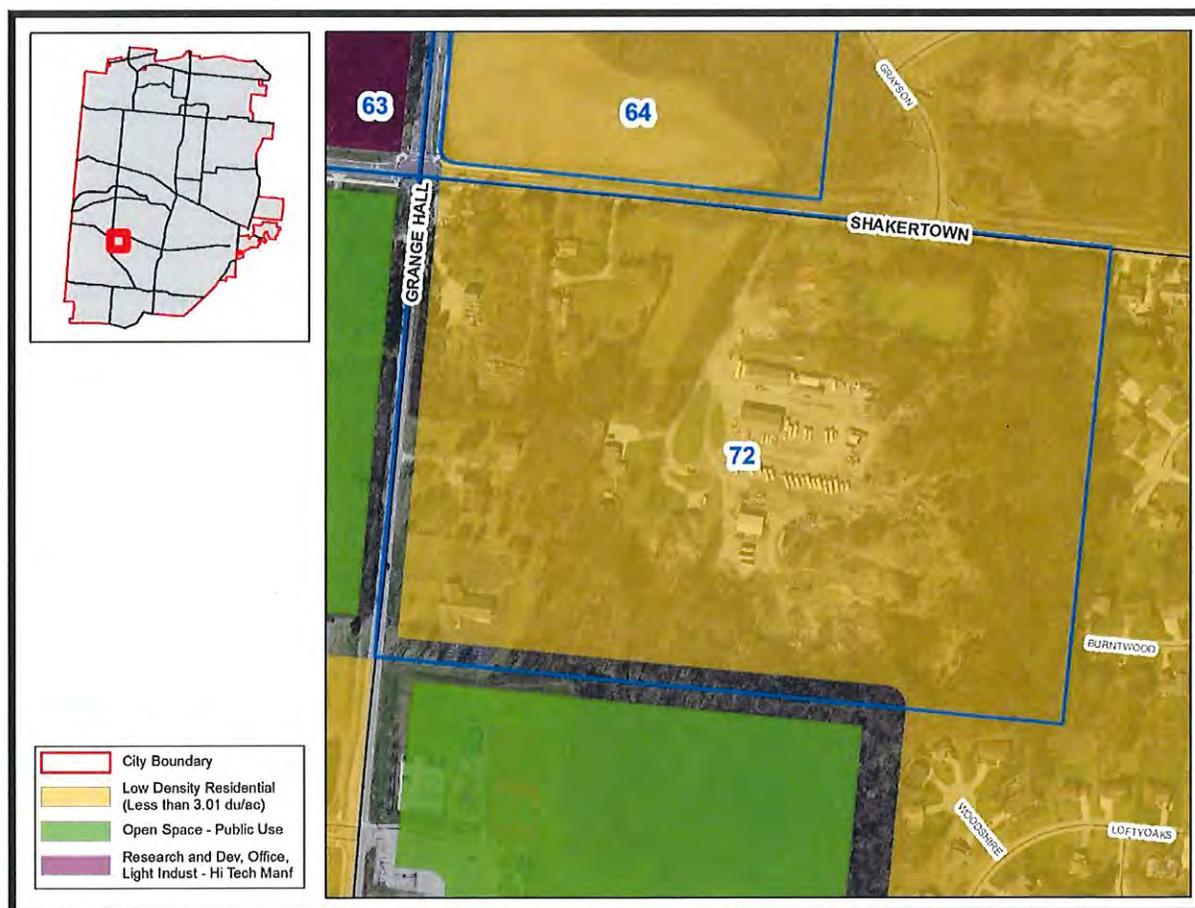
-Vacant Planning Area 72

VPA 72, which is approximately 44 acres, is a collection of a several properties located at the southeast corner of the Grange Hall Road and Shakertown Road intersection, ~~and~~— it contains some older houses and accessory structures, an un-reclaimed gravel pit, and a recreational vehicle storage facility. VPA 72 is surrounded by VPA 63 to the northwest, VPA 64 to the north, ~~single-family development and a large lot~~ Ankeney Middle School to the west and Shaker Heights residential plat sections to the east.

VPA 72 is designated for Low Density Residential use.

Thoroughfare access is provided by Grange Hall Road and Shakertown Road. Grange Hall Road, along the frontage of this VAP ~~both of which are~~ is an unimproved minor arterial. Planned upgrading to design criteria for the functional class should be done in conjunction with all VPA developments at that location and vicinity. VPA 72 is approximately 1.6 miles from the U.S. 35/Dayton-Xenia Road partial-interchange and 2.3 miles away from the I-675/Indian Ripple Road full interchange.

Any development within VPA 72 should preserve as many of the existing trees as possible, especially along the sloped portions adjacent to the creek to aid runoff and erosion control.



Vacant Planning Area 76 (PDA)

VPA 76, at approximately 144 acres, is one of the largest future development areas in the City. It is located southwest of the U.S. 35 intersections with Shakertown Road and Factory Road. VPA 76 is bordered by agricultural floodplain land of the Beaver Creek, a beverage drive-thru and an RV-mobile home storage yard in the Township across Factory Road to the east, VPA 77 across North Alpha-Bellbrook Road to the southeast, and Tara Estates residential plat sections to the south and west.

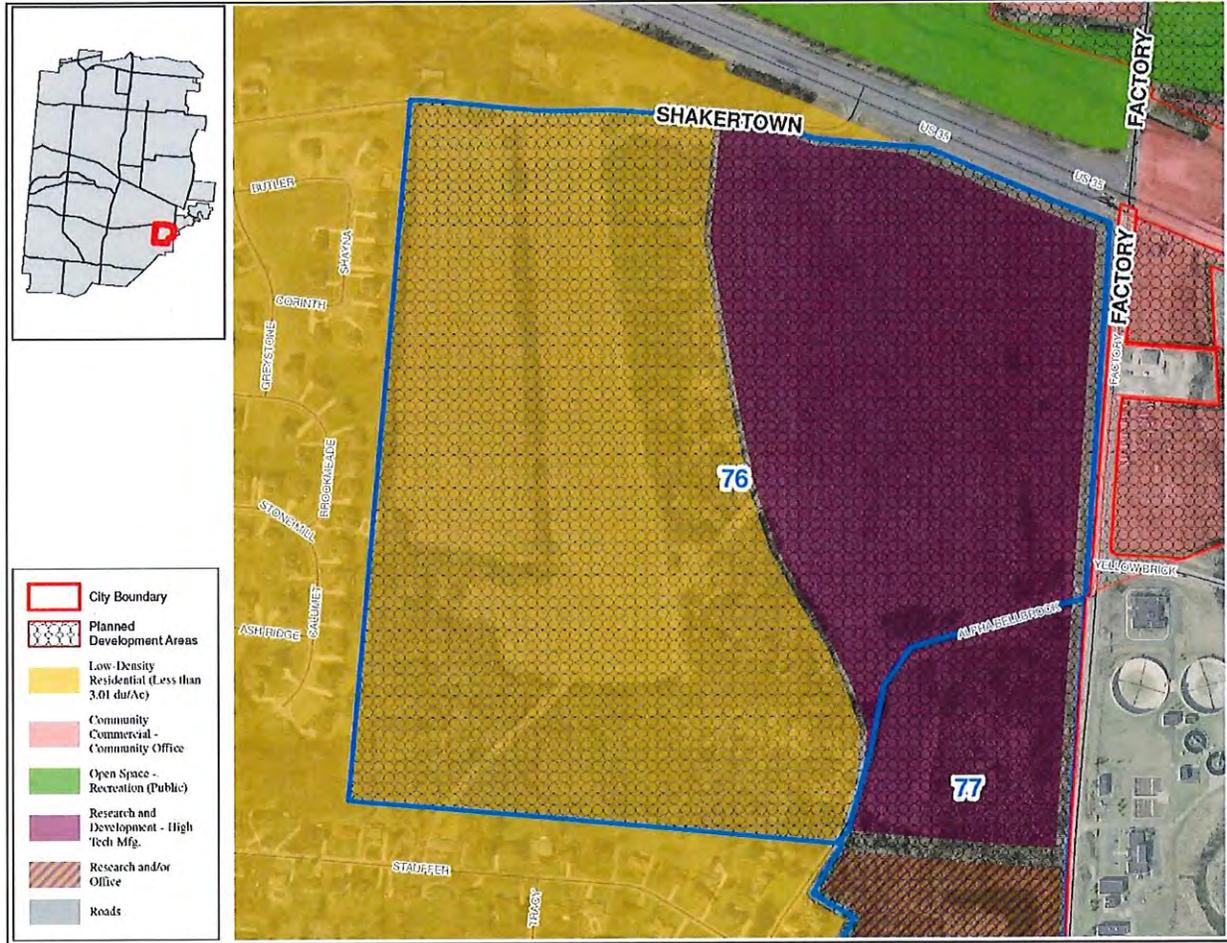
VPA 76 is designated for development of a sequence of residential to non-residential uses proceeding from southwest to northeast. Proximity of access to U.S. 35 and sewer and water initially indicated VPA 76 was suitable for Regional Commercial/Office and/or High Density Residential use, but the depth and extent of Beaver Creek floodplain and the degree of upgrade improvements necessary for adjacent unimproved thoroughfares limited use consideration to the designated uses. The southwestern portion on the higher ground abutting Tara Estates to the west and south is designated for Low Density Residential development as a continuation of the same type of use of the existing plat to the west. The northeastern corner portion is designated for Research and Development - High Tech. Manufacturing. Given its access potential to Shakertown Road and Factory Road, development could occur in the floodplain if structures were properly floodproofed. The boundary between the distinct land use designations for VPA 76 may need to be re-evaluated if interchange improvements at US 35 and Factory Road re-route Shakertown Road through VPA 76. For these reasons, VPA 76 is designated as a Planned Development Area on the Land Use Plan Map.

Thoroughfare access is directly facilitated by unimproved minor arterials of the Thoroughfare Network; Shakertown Road at the north, Factory Road at the east, and North Alpha-Bellbrook Road at the southeast. Even though accessibility is near to U.S. 35, planned upgrades for the named arterials are necessary as part of VPA 76 designated development.

Future development should not result in limiting, but rather, promoting options for better interchange access to U.S. 35 at Factory Road/Alpha Road/Orchard Lane.

All of the residential designated portions are outside of Beaver Creek floodplain fringe, except for a small portion at the southeast corner. The designated Research and Development - High Tech. Manufacturing portion is completely within floodplain and will need to satisfy code requirements for structure floodproofing.

Vacant Planning Area 76



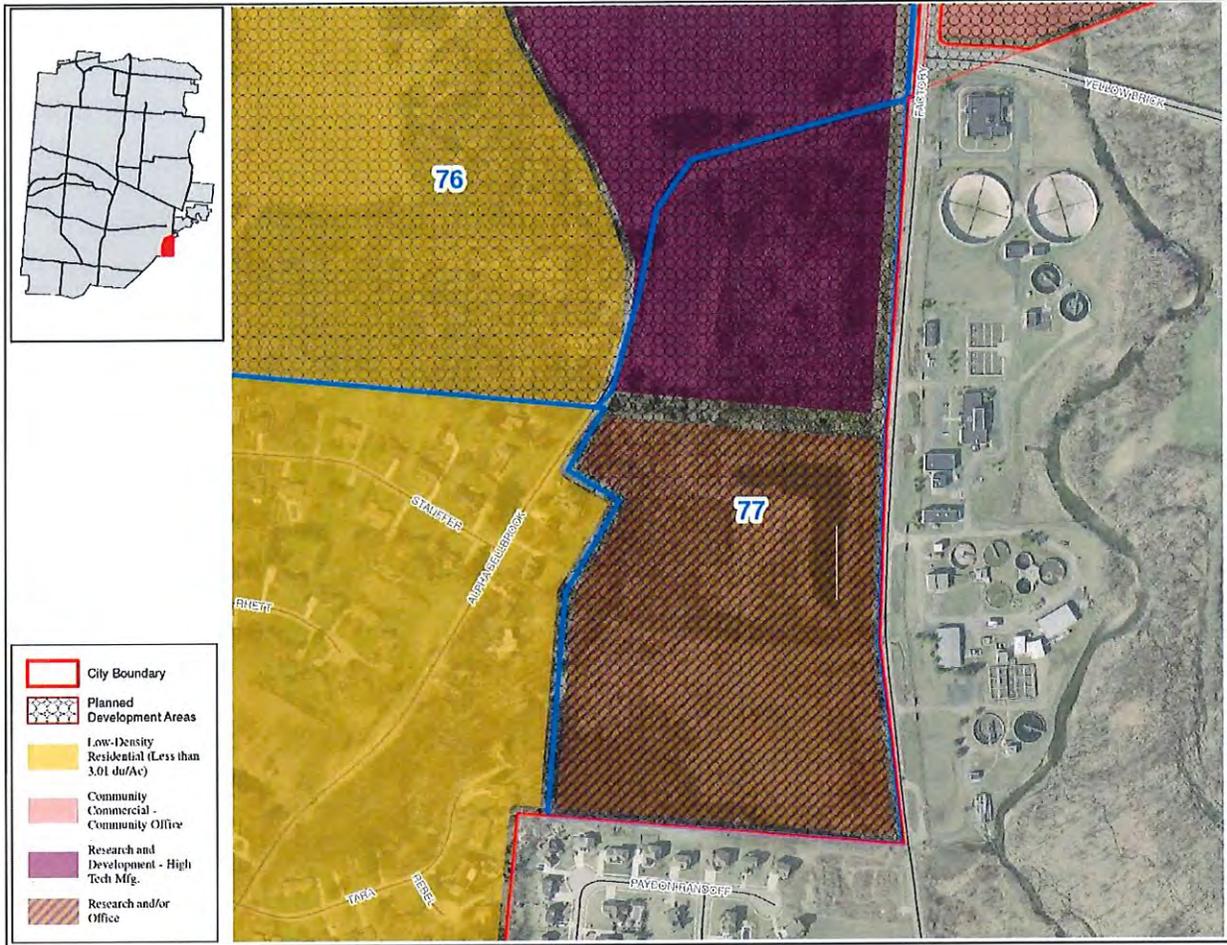
~~Vacant Planning Area 77 (PDA)~~

~~VPA 77, which is approximately 41 acres, and is located at the southwest corner of the North Alpha-Bellbrook Road and Factory Road intersection. It is bordered by VPA 76 across North Alpha-Bellbrook Road to the north/northwest, the Beavercreek Wastewater Treatment Plant in the Township across Factory Road to the east, a single family subdivision located within the township to the south, and a residential plat of Tara Estates on higher ground to the west.~~

~~VPA 77 is designated for development of Research and Development/Office/High Technology Manufacturing uses. The topographical characteristics, floodplain concerns, and surrounding uses associated with this VPA may create challenges to the development of Research and Development - High Tech. Manufacturing uses. In light of its unique characteristics, VPA 77 is located within a Planned Development Area. The relatively isolated location buffered from the adjacent plat by the wooded hillside on the west, being opposite the sewage plat to the east, and on a thoroughfare that directly intersects U.S. 35 are reasons in support of the designated use possibilities. Development of the lower portion of VPA 77 must be handled sensitively in order to sufficiently screen and buffer proposed uses from the rear of the residential uses immediately adjacent to the south and southwest.~~

~~Thoroughfare access is facilitated by unimproved minor arterials of the Thoroughfare Network; Factory Road along the eastern border and North Alpha-Bellbrook Road along the north/northwestern border. Some widening has been performed within the existing narrow rights-of-way for those thoroughfares by repaving, shoulder dressing, and drainage improvements, but upgrading is needed in conjunction with any development of this VPA.~~

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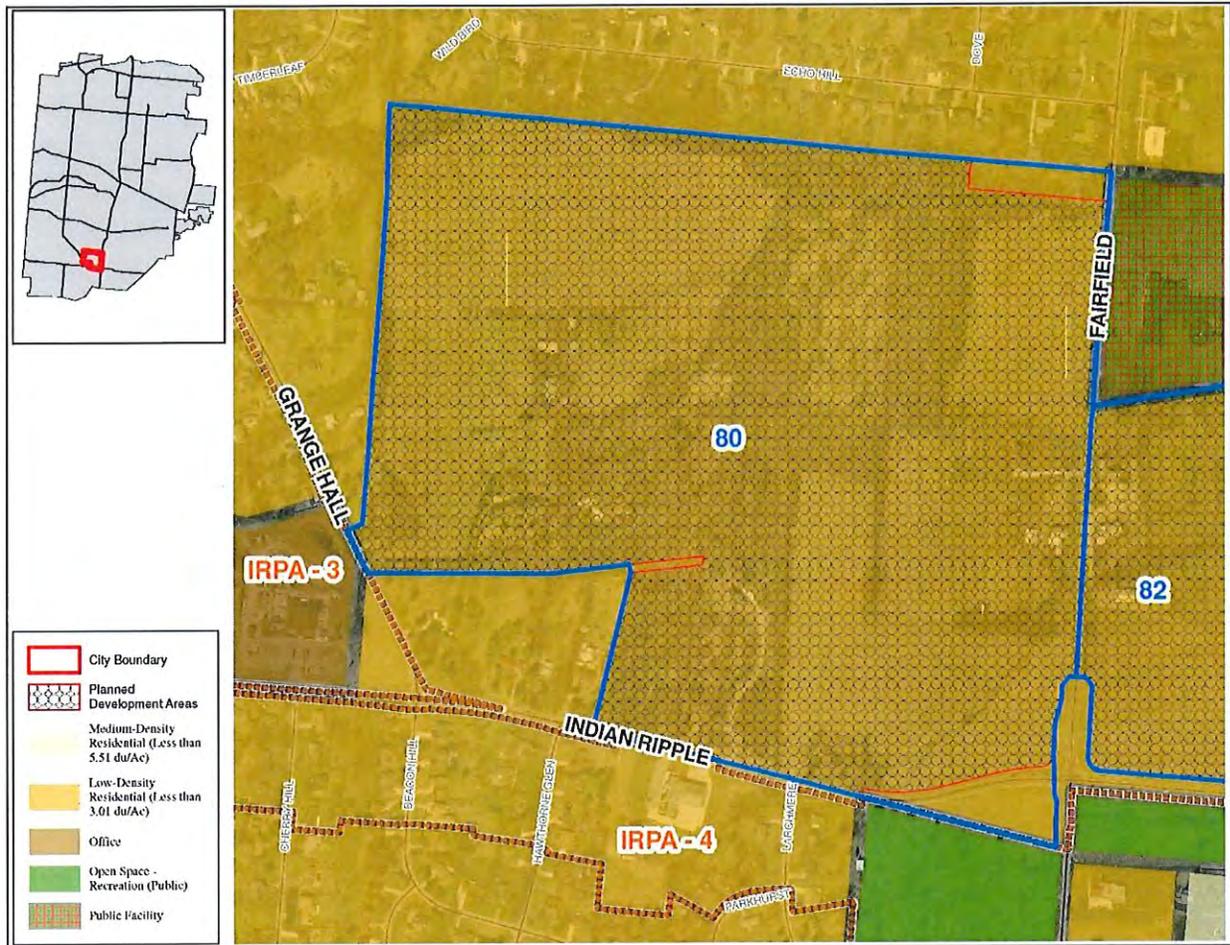
Vacant Planning Area 80 (PDA)

VPA 80, which is approximately 127 acres, is located on the north side of Indian Ripple Road between Grange Hall Road to the west and North Fairfield Road to the east. It is bordered by Country Acres residential plat to the north, Fairbrook Elementary School, vacant land, and VPA 82 to the east, Indian Ripple Planning Area 4 and a church, a fire station, Country Acres and Hawthorne Glen plat sections to the south and large lot home sites to the southwest. VPA 80 is presently occupied by a few homes and a portion of a farming operation. The remaining land area is used agriculturally.

VPA 80 is designated for Low Density Residential in consideration of compatibility with surrounding uses. It is located within a Planned Development Area since it is across North Fairfield Road from VPA 82, which is another Planned Development Area within the city. Two creeks flow diagonally southwest to northeast across VPA 80 along the north border and near the southeast corner.

Thoroughfare access is provided by North Fairfield Road to the east and Indian Ripple Road to the south. Respectively, both the major arterial and minor arterial roadways have planned for upgrades appropriate for their functional class. The planned upgrades should occur in conjunction with the designated development of VPAs 80 and 82 to the east. VPA 80 is located approximately 2 miles from the U.S. 35/North Fairfield Road intersection and 1.2 miles from the I-675/Indian Ripple Road interchange.

The northern portion of the VPA is located within a floodplain of the creek that flows west to east along the northern border. Development shall observe code requirements for floodplain impact in that portion. The existing trees should be maintained as much as possible for aesthetic and screening purposes, in addition to runoff/erosion control.



~~Vacant Planning Area 82 (PDA)~~

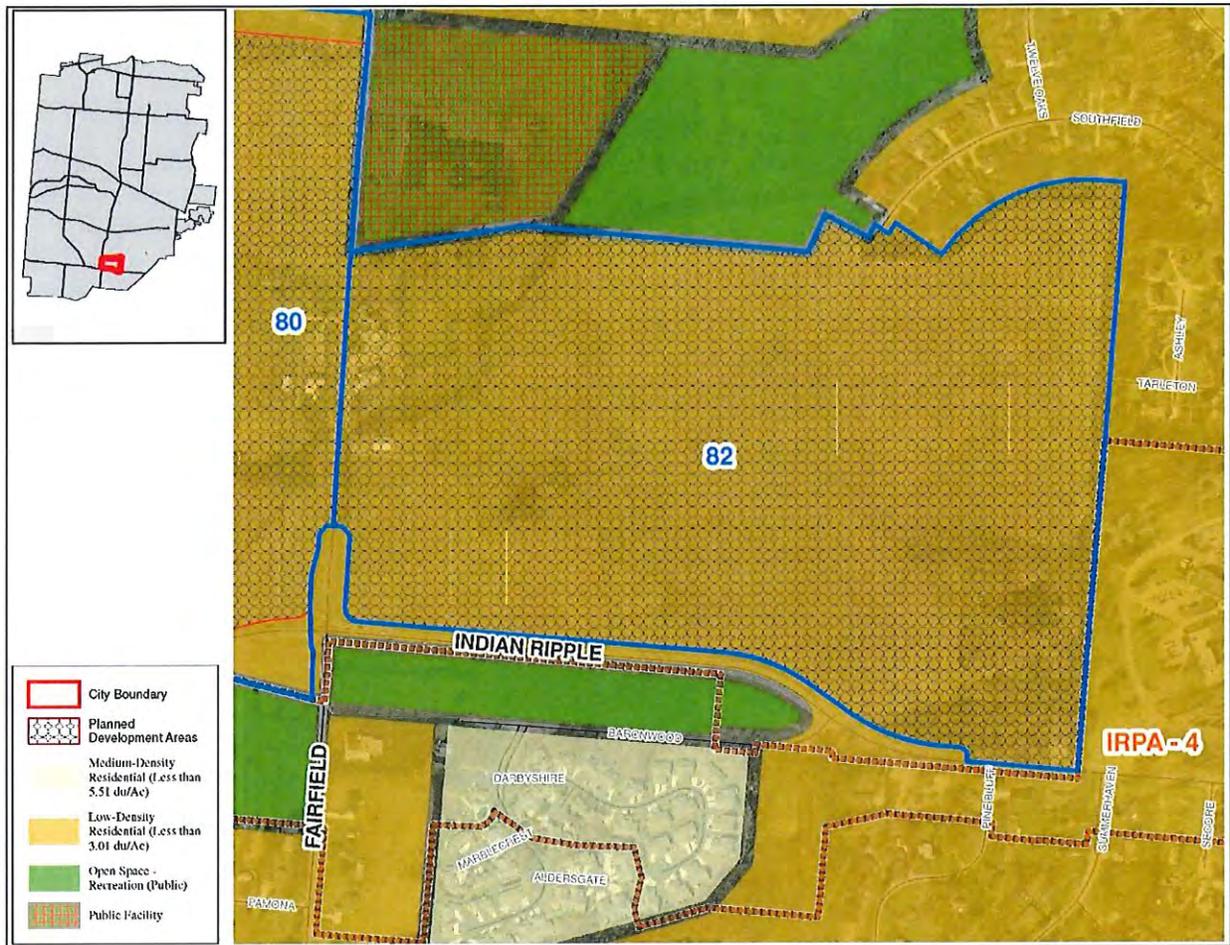
~~VPA 82, which is approximately 103 acres, is an irregular-shaped collection of several properties located northeast of the North Fairfield Road and Indian Ripple Road intersection. It is bordered by Tara Estates residential plat section to the north/northeast inclusive of parkland dedicated at the location, the Trinity Nursing Care/Retirement Complex to the east, Indian Ripple Planning Area 4, a Country Acres plat and a cemetery to the south, and VPA 80 across North Fairfield Road to the west. VPA 82 is nearly all vacant agricultural land presently, with the exception of a farm house along North Fairfield Road.~~

~~VPA 82 is located within a Planned Development Area and is currently designated entirely for Low Density Residential development. Many factors provide reasoning for the VPA being designated as a Planned Development Area, including the sheer size of vacant developable land in the VPA, the VPA's location at the intersection of two arterial roads, and the variety of adjacent land uses that surround the area.~~

~~Thoroughfare access is provided by North Fairfield Road along the western border and Indian Ripple Road along the southern border. Both are classified unimproved arterials of the Thoroughfare Network and are planned for upgrades. Internal streets provided through VPA 82 development are recommended to connect the Southfield Drive residential collector and the Tarleton Drive local street in Tara Estates to the east with the realigned Indian Ripple Road. VPA 82 is approximately 2 miles from U.S. 35/North Fairfield intersection and 1.6 miles from the I-675/Indian Ripple Road interchange.~~

~~None of VPA 82 is located within a floodplain.~~

~~_____~~
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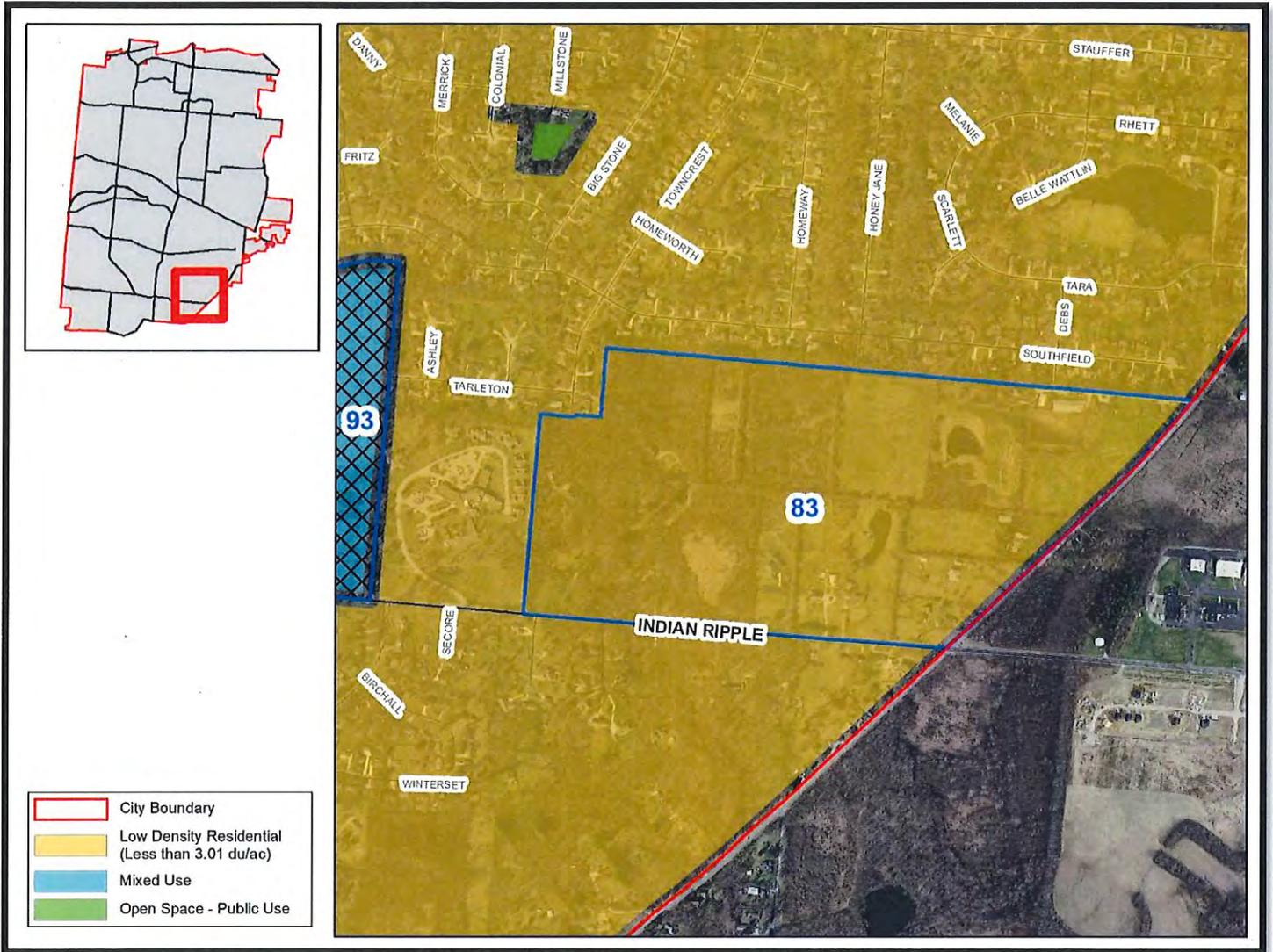
Vacant Planning Area 83 (PDA)

VPA 83, which is approximately 129 acres, is a collection of partially developed properties located northwest of the Indian Ripple Road and North Alpha-Bellbrook Road intersection. It is bordered by Tara Estates ~~residential plat sections~~ to the north, vacant agriculturally-used land across North Alpha-Bellbrook Road to the east/southeast in the Township, large-lot home sites, the Willow Brook plat, and Woodview Estates plats across Indian Ripple Road to the south, and the Trinity Community complex to the west. Some, but not all, of VPA 83 is occupied by several single family dwellings on large lots.

VPA 83 is designated entirely for Low Density Residential development. Compatibility with adjacent residential plats and large-lot home sites, along with its location along the fringe of the community, ~~resulted in the designated development density warrants a designation~~ for Low Density Residential use. This type of development will provide a well-planned transition on the fringe of the community between more suburban uses, and agricultural uses in the township.

Thoroughfare access is provided by North Alpha-Bellbrook Road, an unimproved ~~minor arterial~~ non-city roadway along the east/southeast border, and Indian Ripple Road, an unimproved major arterial along the southern border. Needed upgrades to functional class design criteria should be implemented in conjunction with any large-scale development of VPA 83. VPA 83 is 1.5 miles from the U.S. 35/Factory Road intersection to the northeast and 2.3 miles from the I675/Indian Ripple Road full-service interchange to the west. ~~VPA 83~~ Development should provide a centrally located street to run east/west between a southward extension of Towncrest Drive from Tara Estates and North Alpha-Bellbrook Road. Other internal streets ~~provided in VPA 83~~ should result in connections between Honey Jane Drive and Debs Drive out of Tara Estates to the north and Indian Ripple Road along the southern border.

[See map on the next page](#)

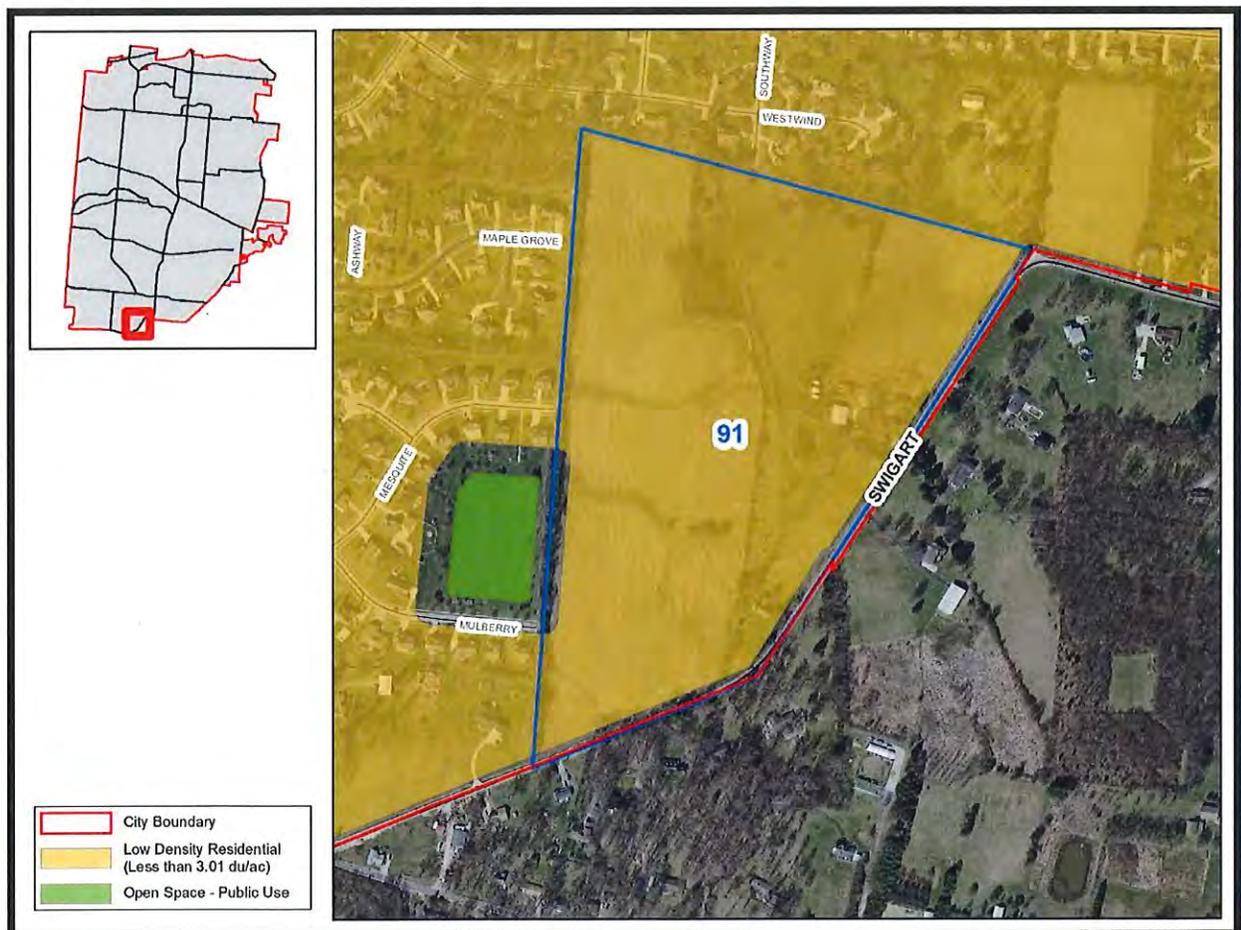


Vacant Planning Area 91

VPA 91, which is approximately 48 acres, is a triangular-shaped property located west of the bend in Swigart Road at the south/central edge of the City. It is bordered by the Hawthorne Glen ~~residential-plats-neighborhood~~ to the north, ~~VPA 92 to the northeast~~, large-lot home sites and the Historical Estates ~~plat-neighborhood~~ in Beavercreek Township across Swigart Road to the southeast, and by Walnut Grove ~~subdivision~~ and VPA 90 to the west. Two single family dwellings presently occupy VPA 91, the bulk of which is agriculturally used.

VPA 91 is designated entirely for Low Density Residential for reasons of compatibility with existing and designated similar adjacent use and the unimproved condition of Swigart Road.

Thoroughfare access is facilitated by Swigart Road, an unimproved ~~major-minor~~ arterial ~~of-on~~ the Beavercreek Thoroughfare Network Plan. Planned upgrading to widen the road, at curb/gutters and sidewalks and potentially the realignment the abrupt bend should be in conjunction with (or in place prior to) the VPA 91-development of VPA 91. Local streets internal to VPA 91 should interconnect existing stub streets located in Walnut Grove to the west and Southway Drive in the plat to the north. None of VPA 91 is located within the floodplain.

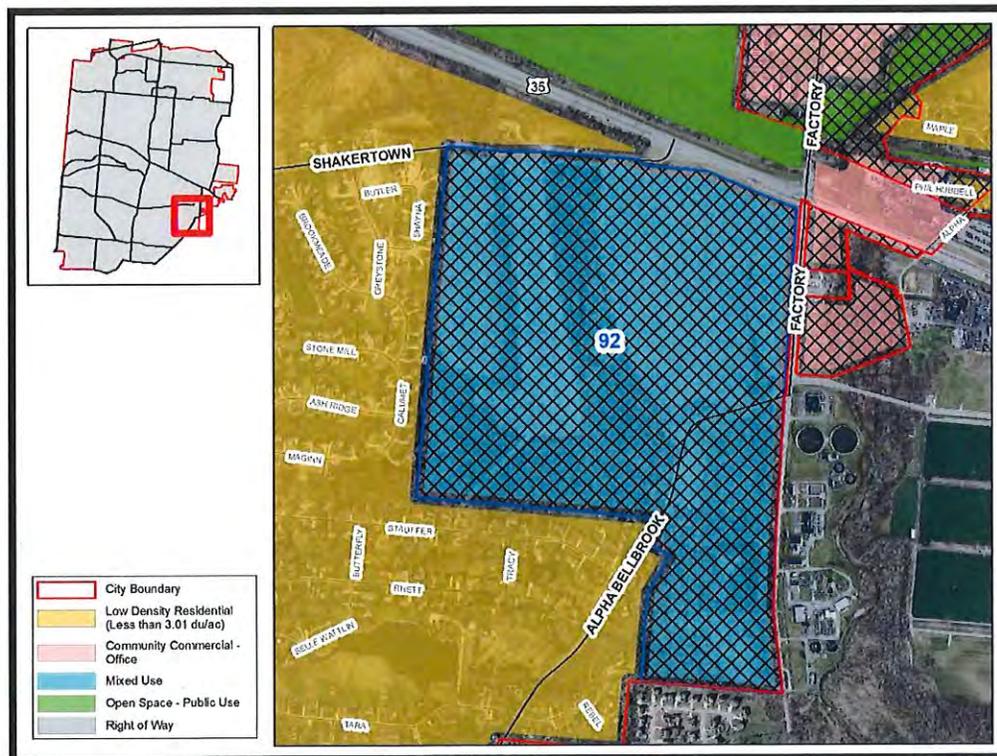


Vacant Planning Area 92

VPA 92, which is approximately 185 acres, is one of the largest future development areas in the City. It was created by combining former VPAs 76 and 77. It is bordered by US 35 to the north, Factory Road and the eastern edge of the City boundary to the east, and Tara Estates to the south. A realignment/reconstruction of Shakertown and Alpha-Bellbrook Roads is under construction, essentially bisecting VPA 92. This VPA will have good visibility along US 35 and several hundred feet of road frontage on Shakertown, Alpha-Bellbrook and Factory Roads following the completion of the road project. With large amounts of road frontage on minor arterials and the visibility on US 35, this area will be attractive for redevelopment in the coming years.

The VPA is currently designated as Mixed Use. A transition from low to medium density residential would best be suited for the south/southwest portion of the VPA, gradually getting more intense to office and commercial uses in the east and northeast. While comprehensively planning for this VPA, care should be given to the buffering of existing single family residential properties neighboring this area, as well as within the portions of the VPA that are designed as a regulatory floodplain.

Residential densities within this VPA can be negotiable, so long as any residential density higher than Low Density Residential is part of an integration of commercial/office/residential uses combined. Should plans include single family residential areas in this VPA, Low Density Residential will be the standard density used for those portions that abut the existing single family residential neighborhoods.

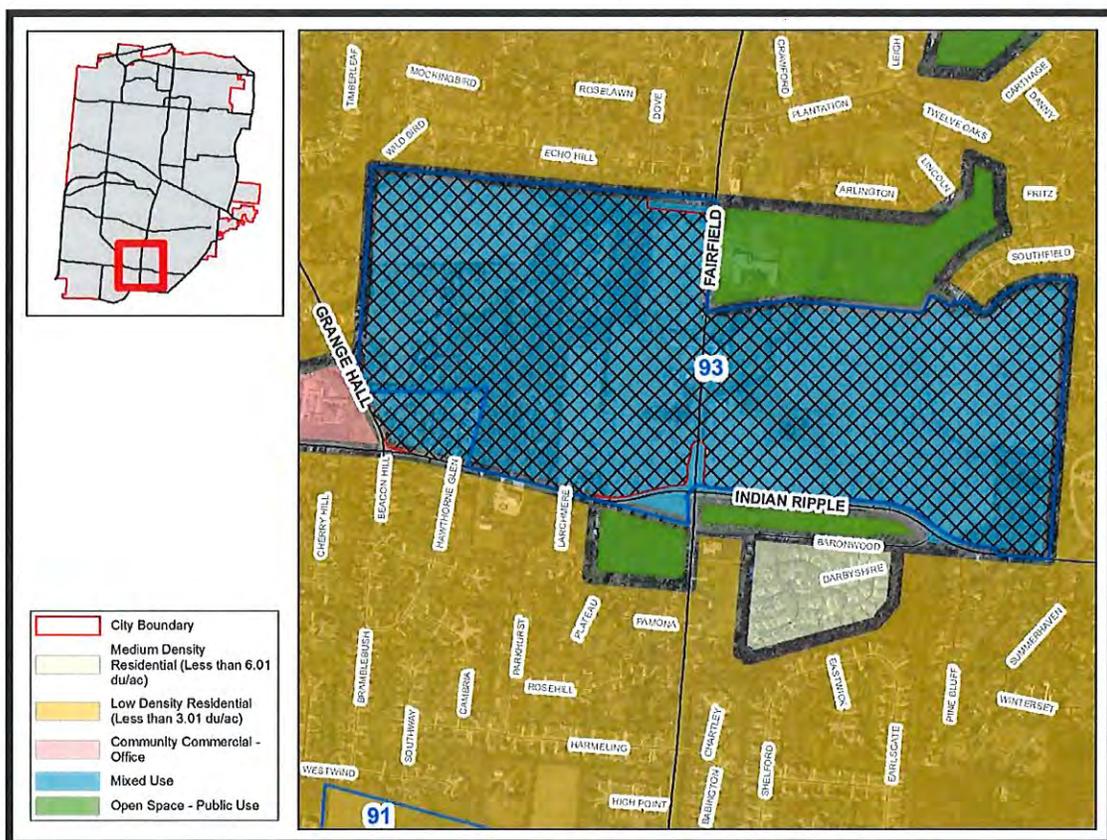


Vacant Planning Area 93

VPA 93 is by far the largest VPA in the City, at over 230 acres. Two major arterials (North Fairfield Road and Indian Ripple Road) transect the VPA, while Grange Hall Road borders the western edge. This VPA was created by combining former VPAs 80 and 82.

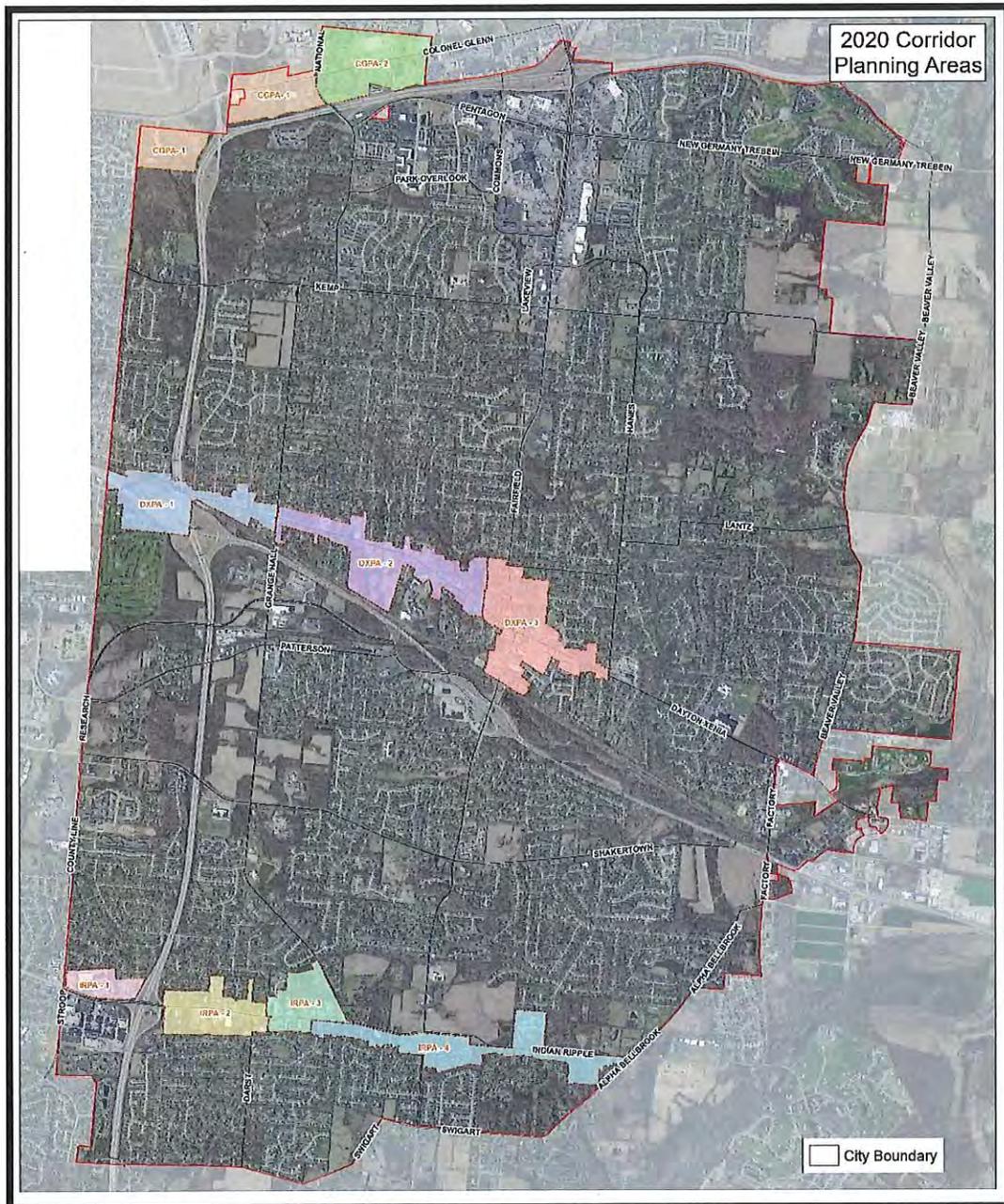
The VPA is currently designated as Mixed Use. It is anticipated that commercial and office uses within any comprehensively planned development in this VPA would be closer to the arterial roads, however careful integration of mixed uses (so long as appropriate buffers for the existing residential are provided) could be appropriate throughout, depending on the inclusion of creative buffering designs.

Residential densities within this VPA can be negotiable, so long as any residential density higher than Low Density Residential is part of an integration of commercial/office/residential uses combined. Should plans include single family residential areas in this VPA, Low Density Residential will be the standard density used for those portions Residential densities within this VPA can be negotiable, so long as any residential density higher than Low Density Residential is part of an integration of commercial/office/residential uses combined. Should plans include single family residential areas in this VPA, Low Density Residential will be the standard density used for those portions that abut the existing single family residential neighborhoods.



Corridor Planning Areas

The purpose of calling out Corridor Planning areas is to direct focus on major corridors throughout to ensure that they continue to remain viable as a community develops and evolves. The three major commercial thoroughfares that have been studied are: **Indian Ripple Road**, Dayton-Xenia Road, Colonel Glenn.

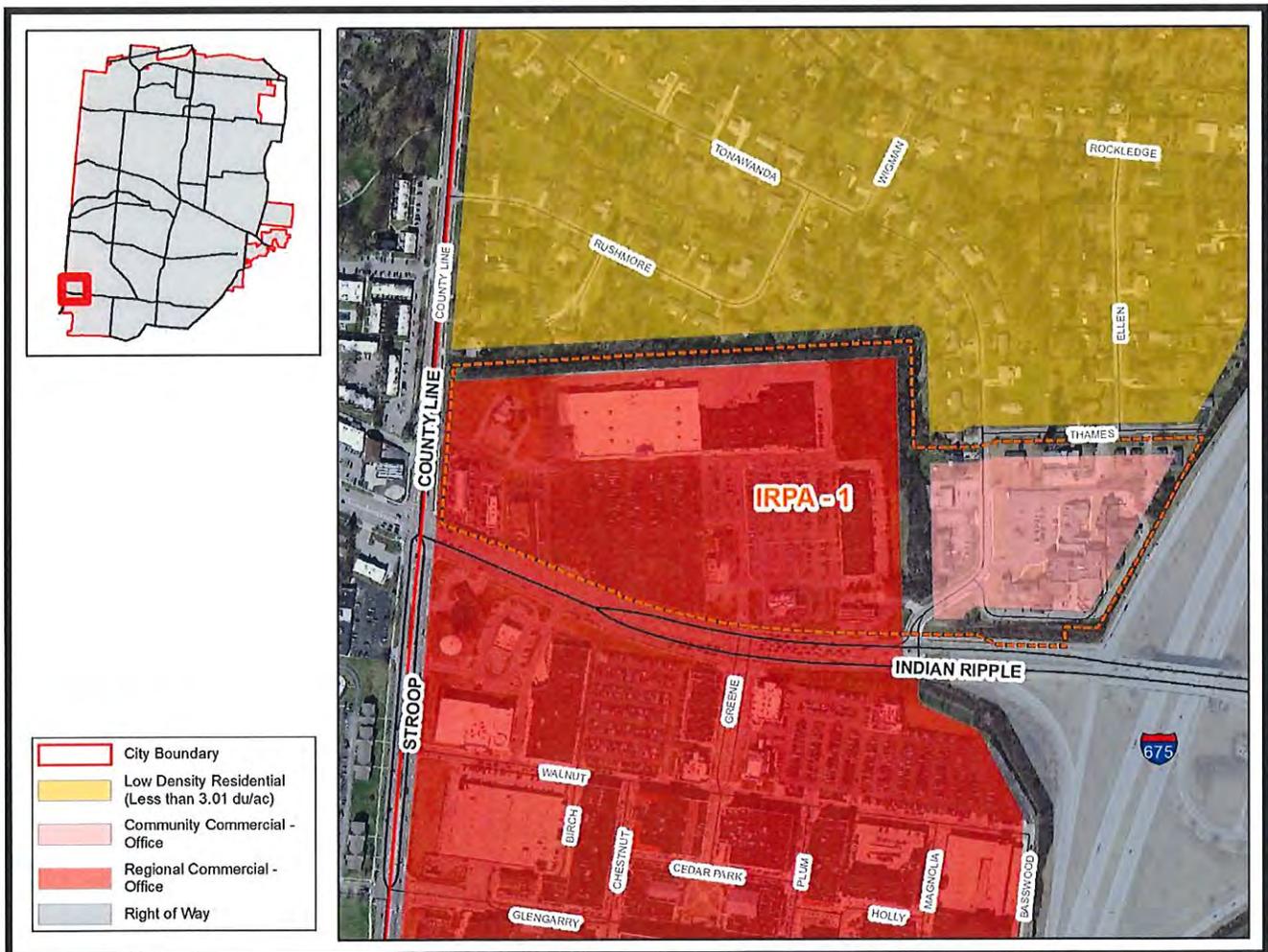


Indian Ripple Planning Area 1

Indian Ripple Planning Area 1 (IRPA-1) encompasses property on the north side of Indian Ripple Road and extends approximately 0.45 miles from County Line Road on the west end to I-675 on the east end. IRPA-1 is comprised of the Indian Ripple Shopping Center area, the BP Oil station, Burris CPA office building, ~~Kettering Oakwood Plumbing Harvest Inc., Crestview Manor Nursing Home Village at the Greene~~, multi-family dwellings and I-675/Indian Ripple Road Right of Way.

Indian Ripple Planning Area 1 consists of Regional Commercial-Office designation along the north side of the roadway in the vicinity of the existing ~~Indian Ripple Greene Crossings Shopping Center and BP Oil station, and Neighborhood Commercial - Office in the area encompassing the recently renovated Village at the Greene~~. ~~The remaining parcels in the IRPA-1 to the east of Indian Ripple Center and the BP Oil station are designated as Office land use.~~

~~Thoroughfare access to this portion of Indian Ripple Road will be as determined through the Planned Unit Development review process and as directed by the City's Thoroughfare Plan.~~



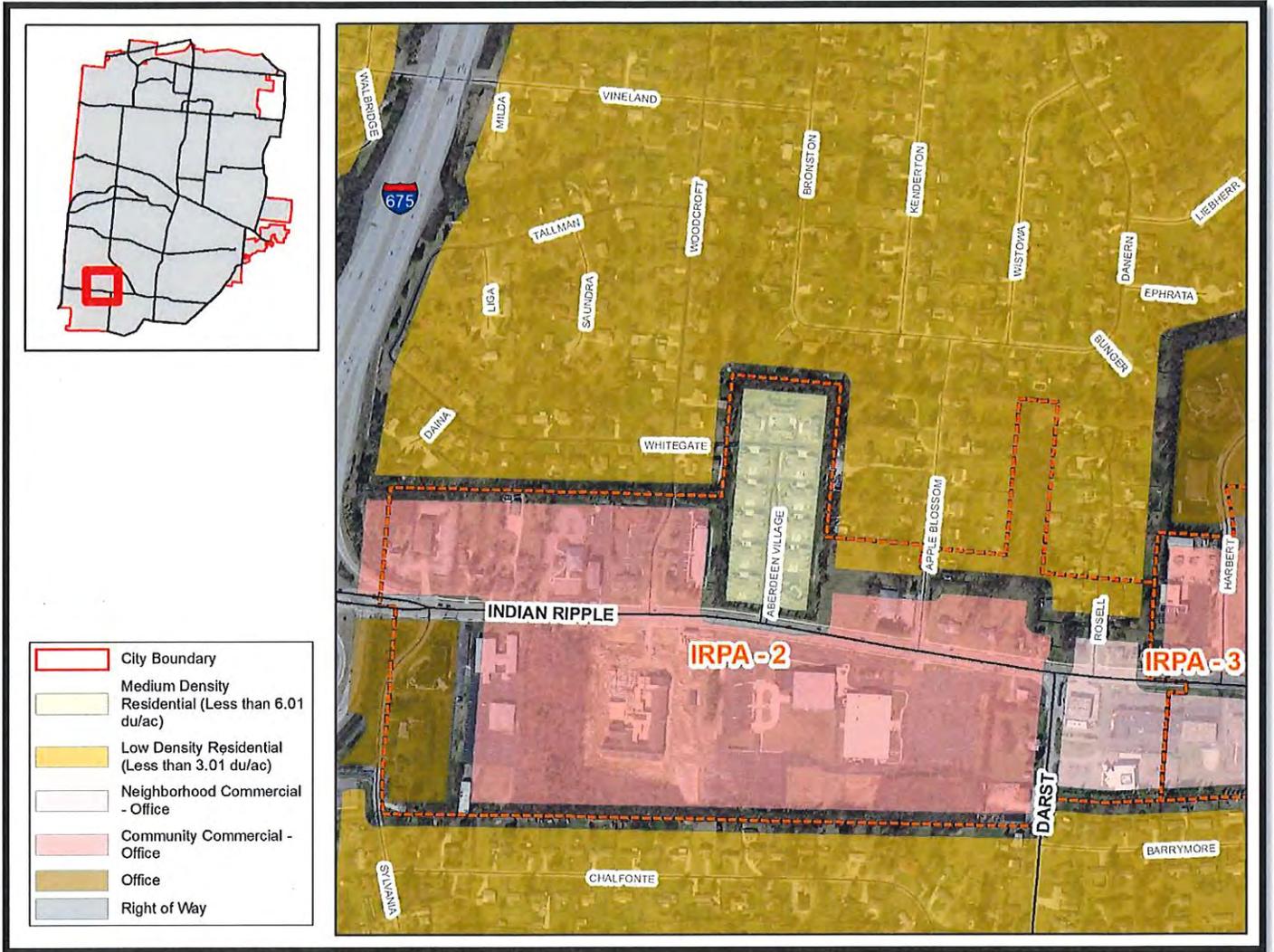
Indian Ripple Planning Area 2

Indian Ripple Planning Area 2 (IRPA-2) encompasses the parcels fronting both the north and south sides of Indian Ripple Road and extending approximately 0.6 miles from the I-675 interchange area on the west end to the vicinity of Darst and Rosell Drive on the east end. IRPA-2 is comprised of a series of typically deep parcels with narrow frontage. Many of the parcels contain small single family residential units either utilized for rentals or that are being marketed or used for non-residential uses/purposes.

Indian Ripple Planning Area 2 is bordered along the north side by Concept 4, Green Meadows, Meadow Lane and Woodland Terrace single family subdivisions. The planning area is bordered to the south by Country Acres Section 6, a single-family residential subdivision. No portion of the planning area is located in a regulatory flood plain.

IRPA-2 has a combination of land use designations. All-Most of this planning area is designated for Neighborhood-Community Commercial ~~-Neighborhood~~ Office use except for the parcels associated with Aberdeen Village, which are classified as Medium Density Residential and the areas located on the southeast corner of Indian Ripple Road and Darst Road, which is Neighborhood Commercial - Office. Given the typically shallow depth and narrow lot configuration, development or redevelopment of the properties on the north side of Indian Ripple should be restricted to smaller commercial operations or office uses. Low/Medium Density Residential development may also be appropriate on the larger parcels that extend into the adjacent single family neighborhoods. The south side of Indian Ripple Road features largely deeper and wider parcels that would allow larger scale development. Therefore, the south side of Indian Ripple Road should be developed or redeveloped for commercial uses or office uses. Thoroughfare access to Indian Ripple Road will be as determined by the City's Thoroughfare Plan.

Map on next page

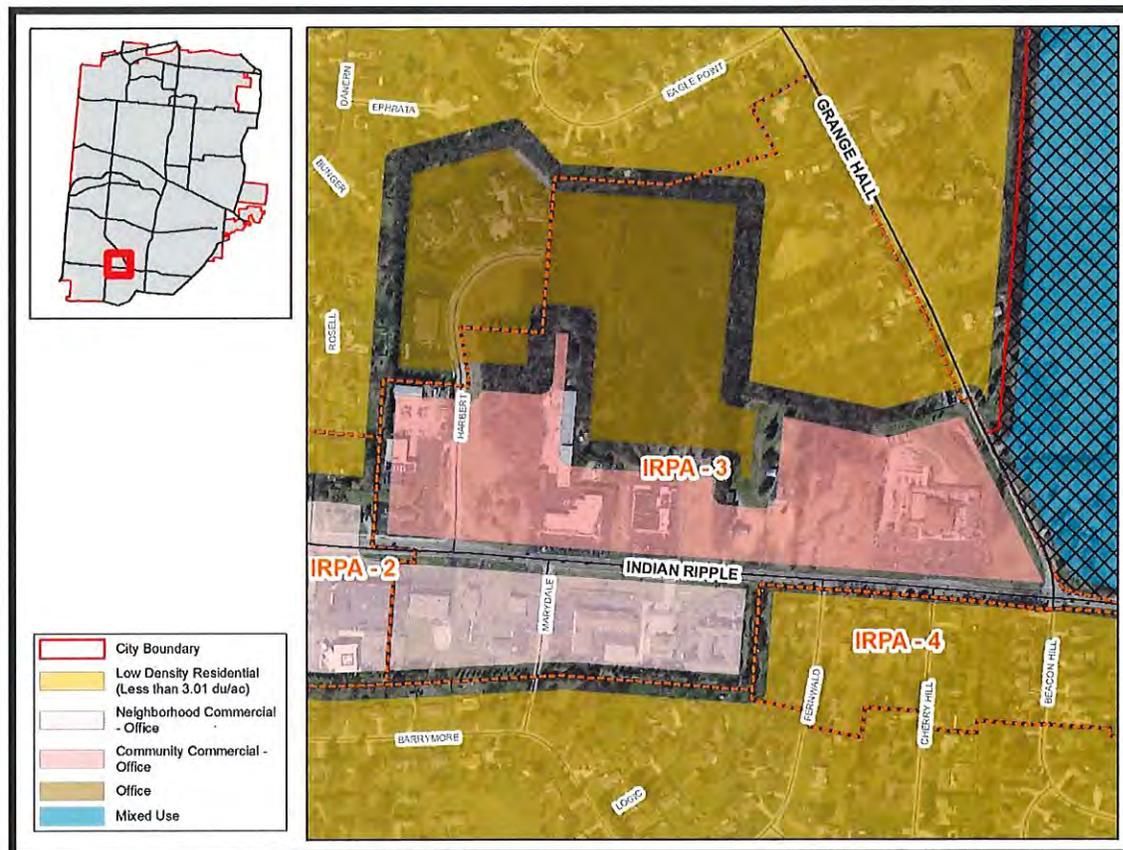


Indian Ripple Planning Area 3

Indian Ripple Planning Area 3 (IRPA-3) encompasses parcels fronting on ~~and in the vicinity of~~ both the north and south sides of Indian Ripple Road and extending approximately 0.5 miles from Rosell Drive to the west to Grange Hall Road on the east end. Planning Area 3 is comprised of a series of primarily undeveloped parcels with those located along the north side of Indian Ripple Road containing considerable lot depth.

Because of the rather unique location between more intensive commercial activity to the west, and very well defined residential activity immediately to the east, this area is best suited as a transition district between the two polarized uses. Therefore, Neighborhood Commercial - ~~Neighborhood~~ Office is the designated use for the south side of this Planning Area, and Community Commercial - Office and Office isare designated for the north side of the Planning Area. The portion of the IRPA fronting on Grange Hall Road is designated Low Density Residential.

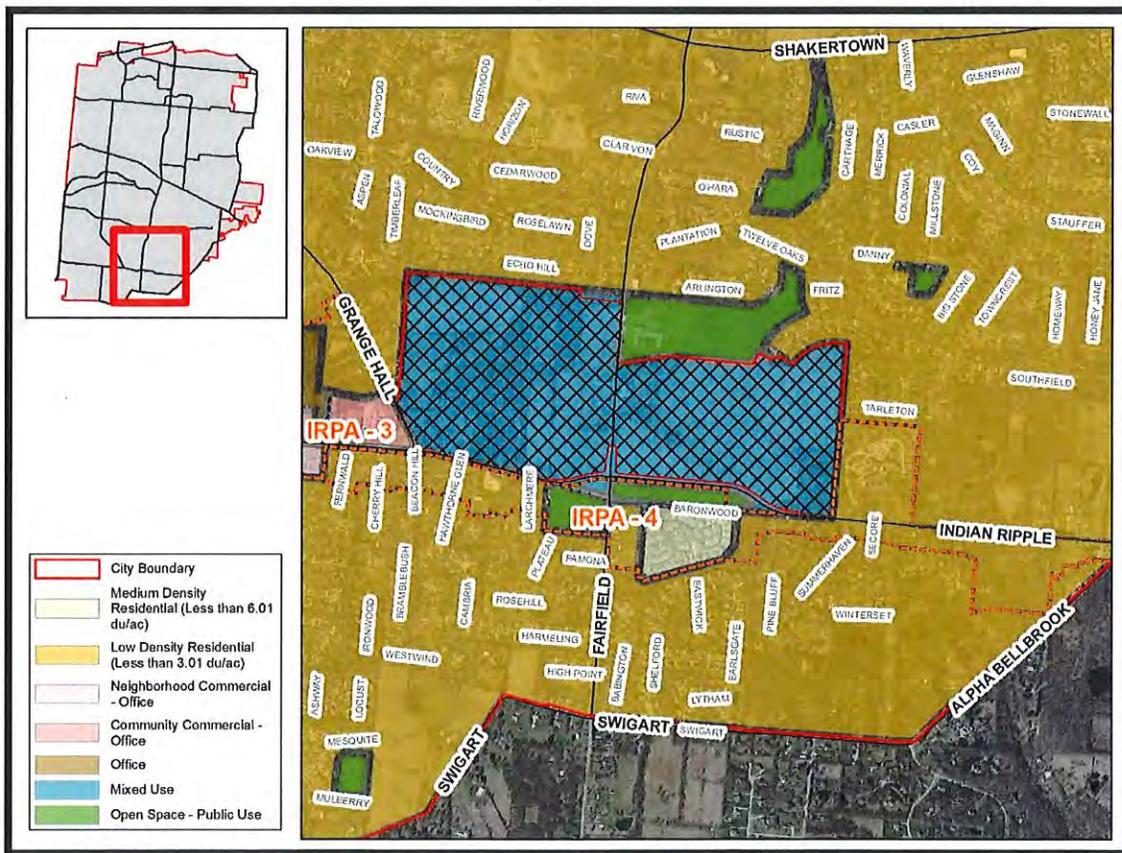
No portion of Indian Ripple Planning Area 3 is located within a regulatory floodplain. Thoroughfare access for all office activity shall occur by way of Indian Ripple Road, with residential access occurring by Grange Hall Road.



Indian Ripple Planning Area 4

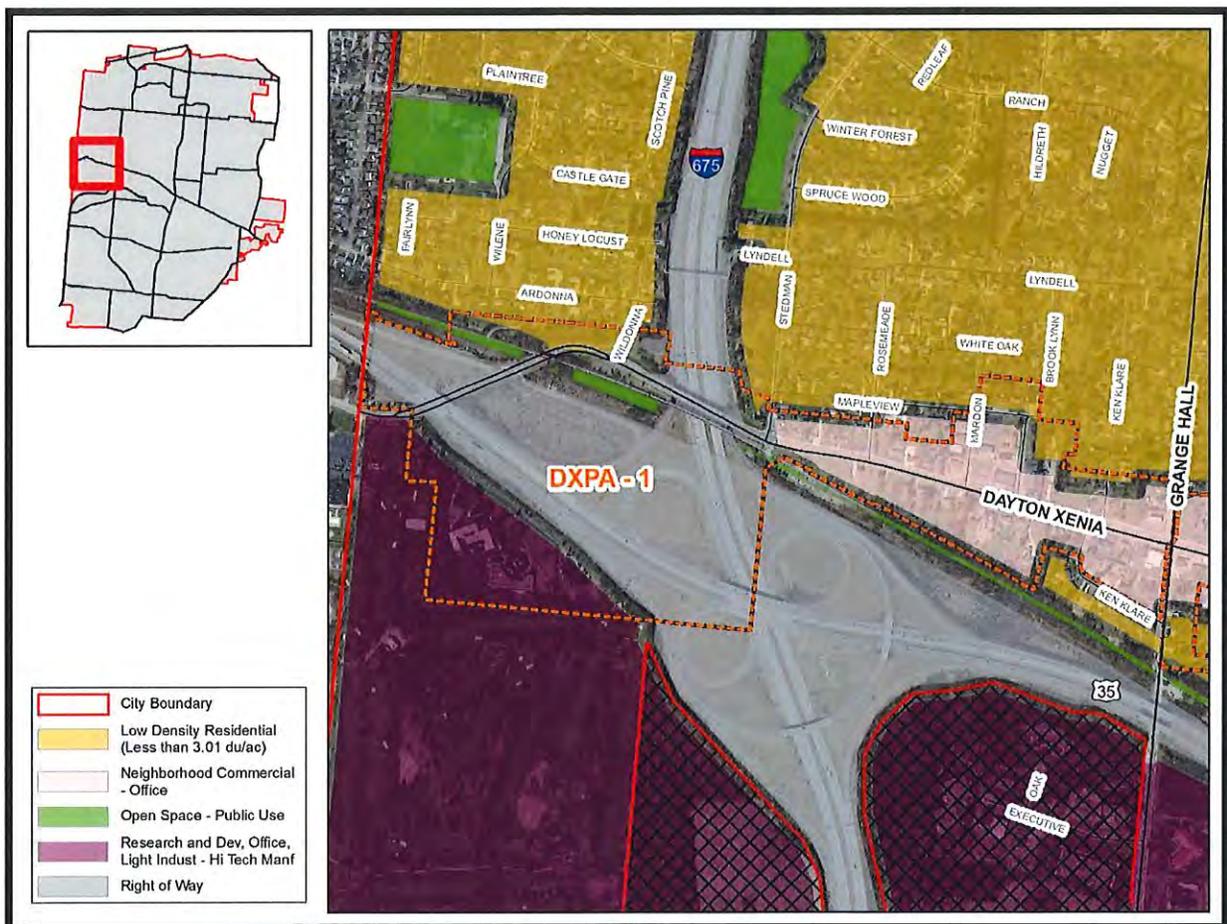
Indian Ripple Planning Area 4 (IRPA-4), encompasses parcels fronting on the north side of Indian Ripple Road but primarily contains parcels on the south side of Indian Ripple Road extending approximately 1.8 miles from Fernwald Drive on the west end to Alpha Bellbrook Road and the City's corporation limit on the east end. Planning Area 4 is comprised of a series of typically residential and agricultural parcels containing single family units, condominium units, Trinity Homes retirement complex, rural home sites and agricultural uses. The planning area is bordered on the south by Willow Brook, Woodview Estates, Country Acres 9 and Kingswood Forest developments.

IRPA 4 is designated as Low Density Residential for the entire land area described above, with the exception of Kingswood Forest and Mount Zion Cemetery, which are designated, respectively Medium Density Residential and Open Space/~~Public~~ - Public Use. This designation is consistent with land uses occurring to the north, south and east as well as in Beaver Creek Township. Thoroughfare access is from Indian Ripple Road and shall be consistent with the City's Thoroughfare plan requirements for driveway access to a major roadway.



Dayton-Xenia Planning Area 1

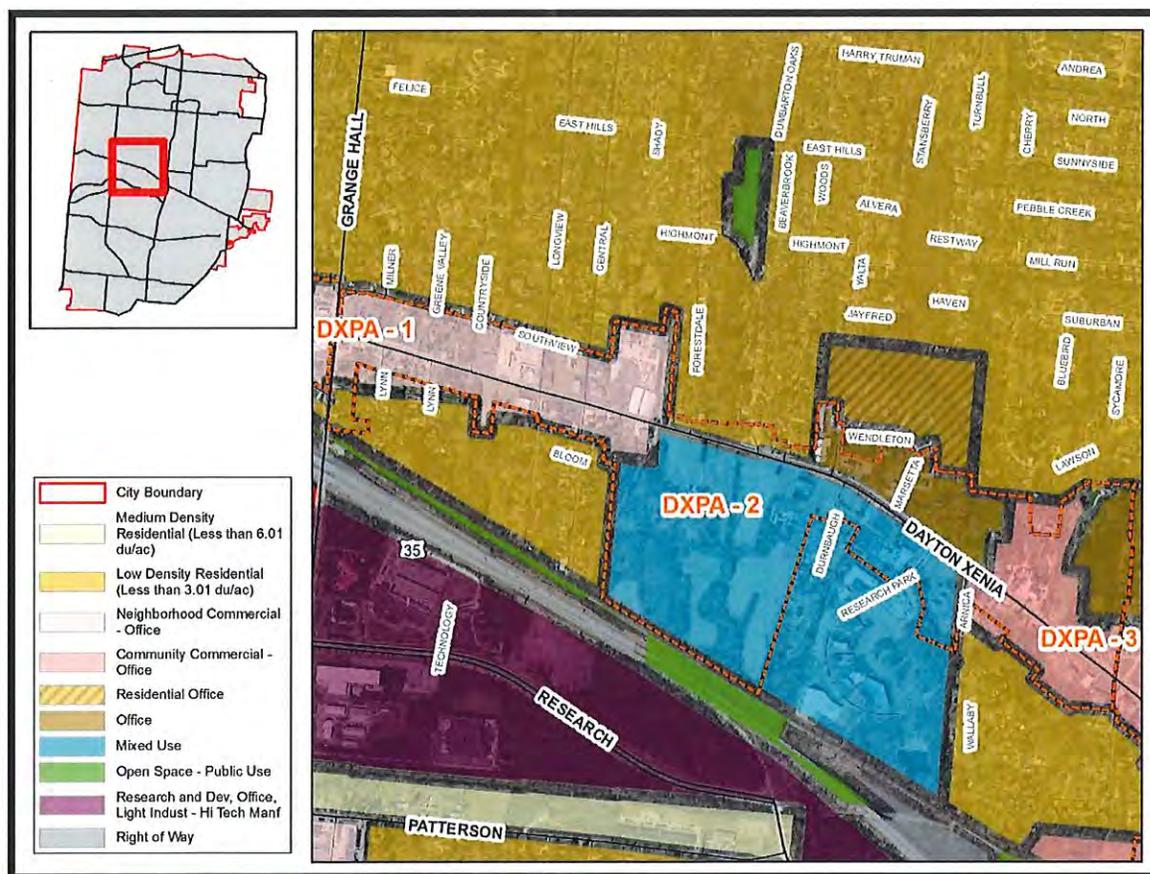
Dayton Xenia Planning Area 1 (DXPA-1) extends from the western boundary of Beavercreek at the county line to the west side of Grange Hall Road. The thoroughfare within this area of the corridor ~~was recently~~ has been improved to a four-lane road, containing sidewalks and side paths. This area is made up primarily of single-family residential homes on the south side of the corridor and small businesses that serve the community on the north side. Some offices, small businesses, and single-family homes are intermingled within these groups of uses along this portion of the corridor. Dayton Xenia Planning Area 1 contains a mixture of predominantly low density residential, with an area of Neighborhood ~~Community~~ Commercial ~~Office~~ designation where Dayton-Xenia Road intersects with Mardon Drive and Grange Hall Road. Creekside Trail, which runs parallel to Dayton-Xenia Road through DXPA-1 is classified as Open Space ~~Public~~ Use.



Dayton-Xenia Planning Area 2

Dayton-Xenia Planning Area 2 (DXPA-2), extending from the east side of Grange Hall Road to Wallaby Drive, consists of mainly small businesses and offices and a few larger more successful establishments such as Knollwood Garden Center and Tobias Funeral Home. There is a variety of service oriented establishments along this portion of the corridor including banks, auto repair shops, barber shops, and dry cleaners. There are two places of religious assembly in this section of the corridor as well a public library, fire station, and post office. There are also several multi-tenant retail centers that fail to remain fully occupied and are in need of renovation.

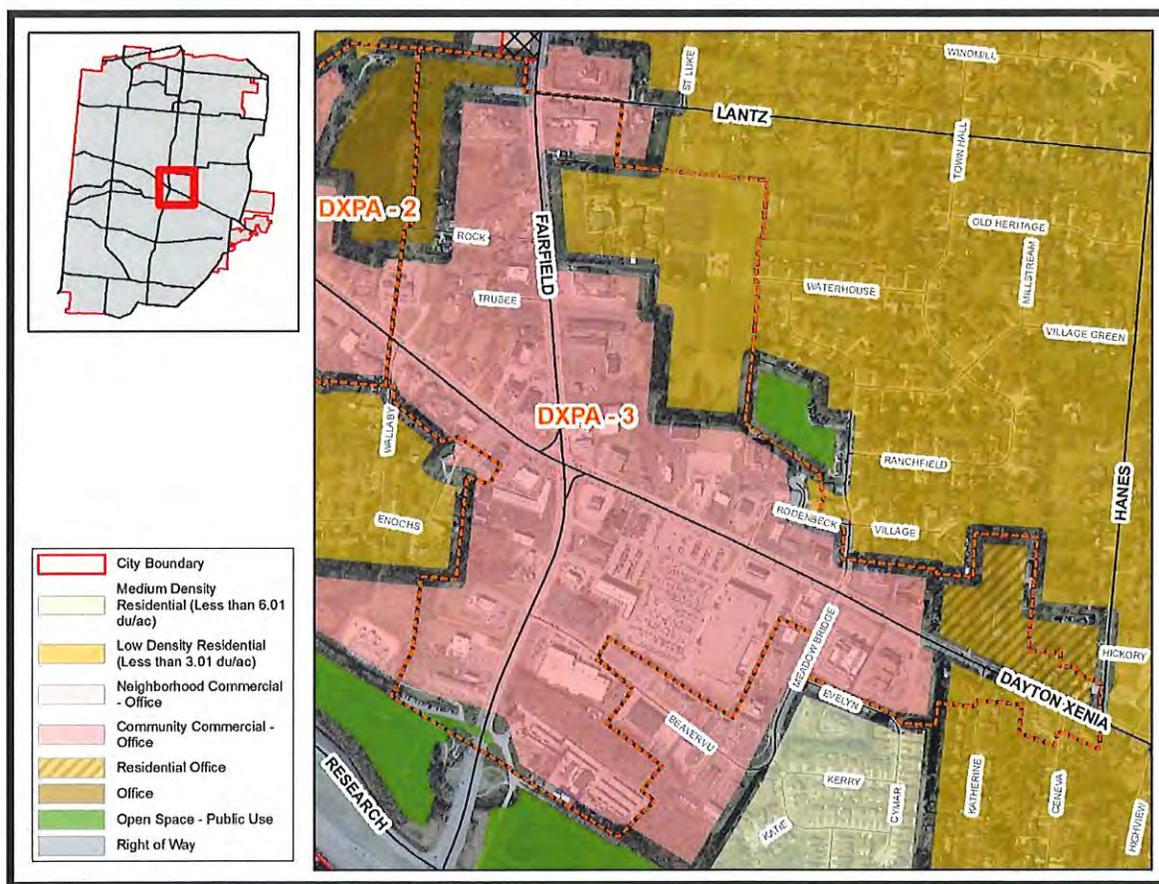
DXPA-2 is a collection of several different land use classifications. Commercial and Office-Mixed Use designations make up the bulk of the area, with some-a small amount of Low Density Residential designations scattered throughout.



Dayton-Xenia Planning Area 3

Dayton-Xenia Planning Area 3 (DXPA-3) the most stable, and economically diverse portion of the corridor at this time, extends-extending from Wallaby Drive to Hanes Road, and is characterized by large anchor businesses on larger properties including a drug store, supermarket, several fast food restaurants, banks, and several multi-tenant retail centers. There are some small pockets of single family residences at the two extremes of this section of the corridor and a section of smaller offices that house doctors, dentists, chiropractors, and insurance agents among others.

Being traditionally known as the “Downtown” of Beavercreek, this areas has been predominantly commercial for quite some time. The Land Use Plan shows a planned continuation of these types of uses, with the majority of the area being designated as Neighborhood/Community-/Commercial-/Office.

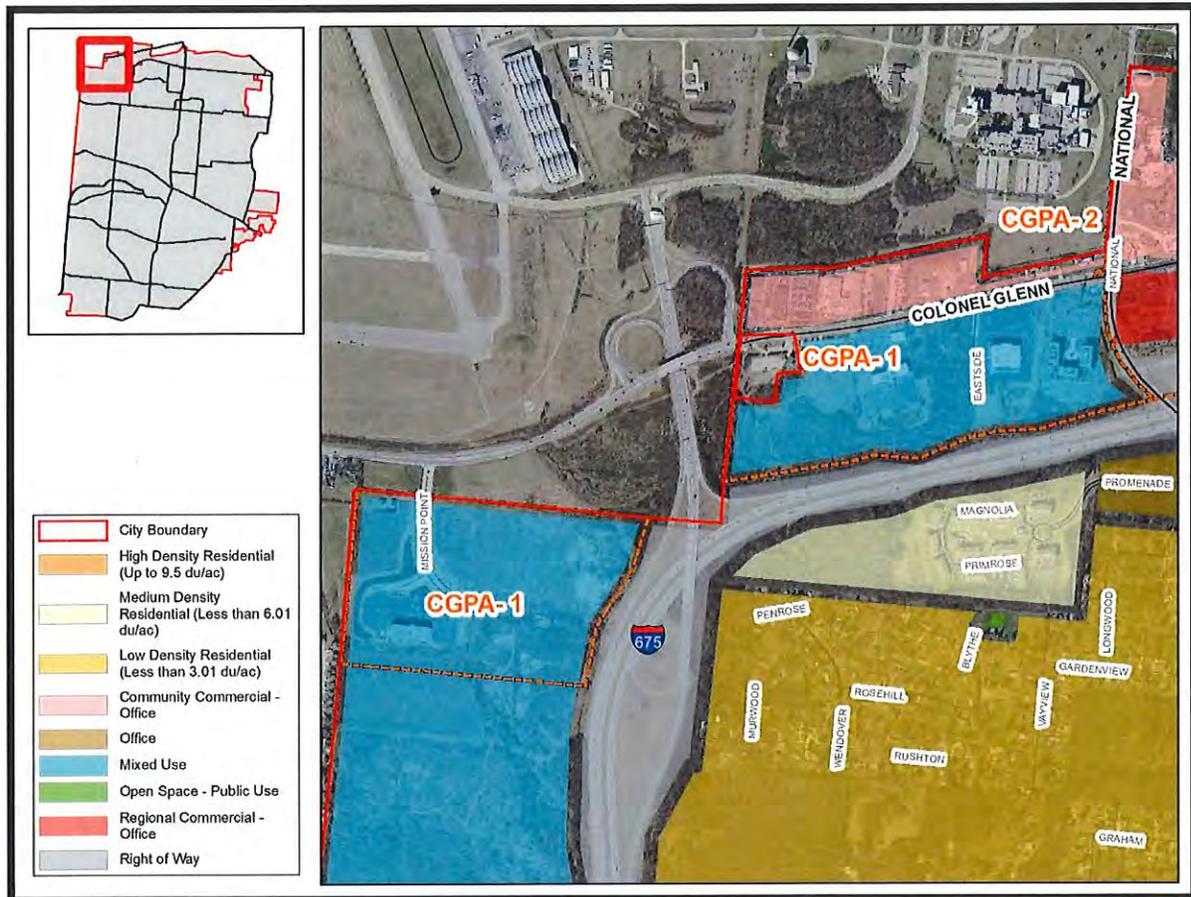


Colonel Glenn Planning Area 1

Colonel Glenn Planning Area 1 (CGPA-1) encompasses parcels fronting on both the north and south sides of Colonel Glenn Highway extending from the City's corporation limit on the west end, and Grange Hall Road on the east end. Colonel Glenn Planning Area 1 is comprised of a mixture of older and newer commercial construction consisting of varying architectural characteristics which are scattered throughout.

CGPA 1 is designated as ~~Neighborhood~~ Community Commercial-Office on the north side of Colonel Glenn Highway, and ~~a more intense Research and Development/Office/High Tech Manufacturing~~ Mixed Use on the south side.

No portion of this planning area is located within a regulatory flood plain.

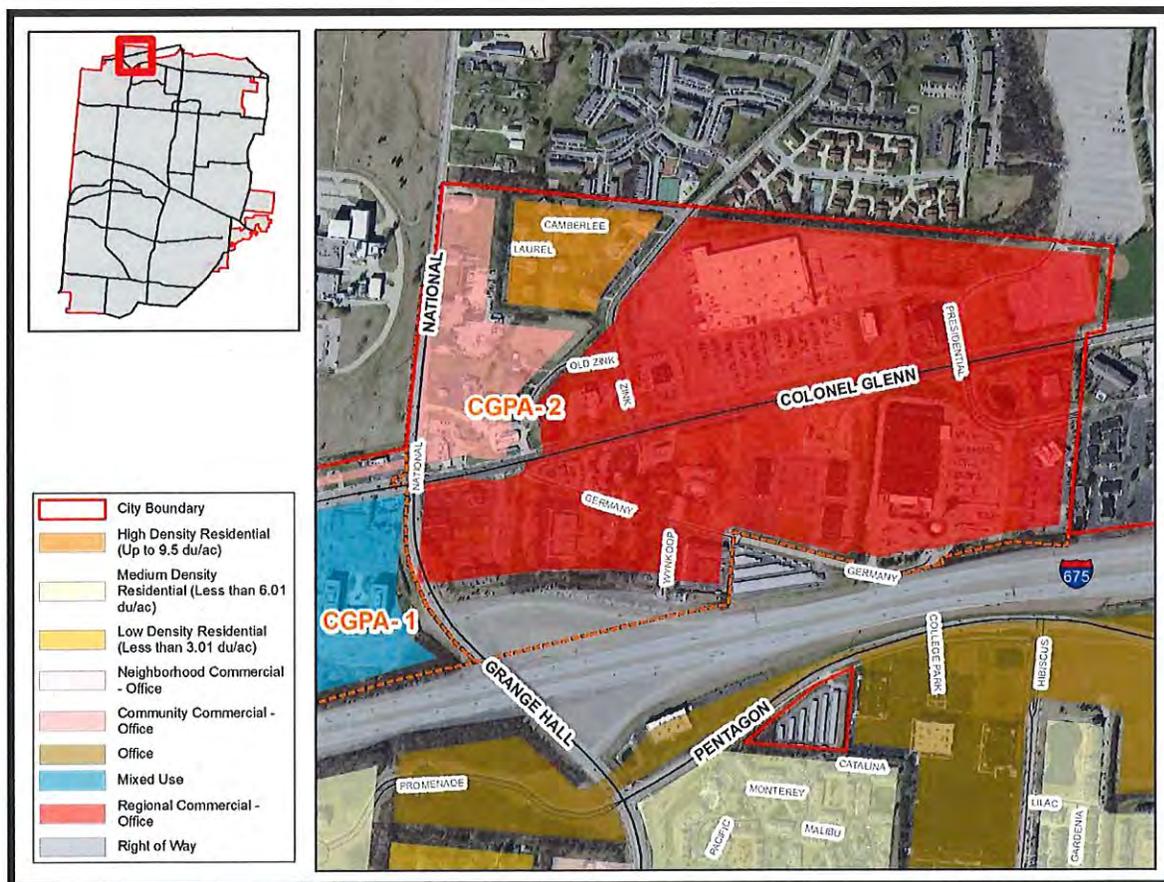


Colonel Glenn Planning Area 2

Colonel Glenn Planning Area 2 (CGPA-2) encompasses parcels fronting on both the north and south sides of Colonel Glenn Highway extending from the City's corporation limit on the west end, and Grange Hall Road on the east end. Planning Area 2 is comprised of a mixture of big box retail (Home Depot and Meijer) along with small scale retail and professional office buildings, as well as some High Density Residential.

CGPA 2 has a multitude of various land use designations, including Neighborhood/Community Commercial/Office, Regional Commercial/Office and High Density Retail-Residential on the north side of Colonel Glenn Highway, and Regional Commercial/Office and Research and Development/Office/High Tech Manufacturing on the south side of Colonel Glenn Highway.

No portion of this planning area is located within a regulatory flood plain.



Planned Development Areas (PDA)

Several Vacant Planning Areas within the City are designated Planned Development Areas (PDAs). They are so designated because due to size, location, and/or existing surrounding use they exhibit a degree of development potential for more than one use by itself or collectively, and thus encompass greater considerations and concerns than are addressed by any one use category. Property which exhibits limitations or restrictions on access, potential traffic conflicts and impacts, and the potential for extensive impacts on the surrounding environment may also be so designated. Their characteristics make unique and creative developments, which may not necessarily be consistent with the Land Use Plan, appropriate for consideration and the potential initiation of a Land Use Plan amendment.

The potential for development in a PDA of a magnitude that may impact surrounding existing developed uses, the physical and natural character and quality of environment, and existing community infrastructure necessitates study and analysis above and beyond that which is normally required for other areas. For this reason, developments proposed in PDAs shall be processed in zoning as Planned Unit Developments (PUDs) or under certain circumstances be processed under the Administrative Site Plan Review Approval Process (ASRA). This is to ensure that proper land use spatial and functional relationships result as intended within and around the PDA. When applicable, development proposals within a PDA shall include a Land Use Plan amendment application to be considered by Planning Commission and City Council.

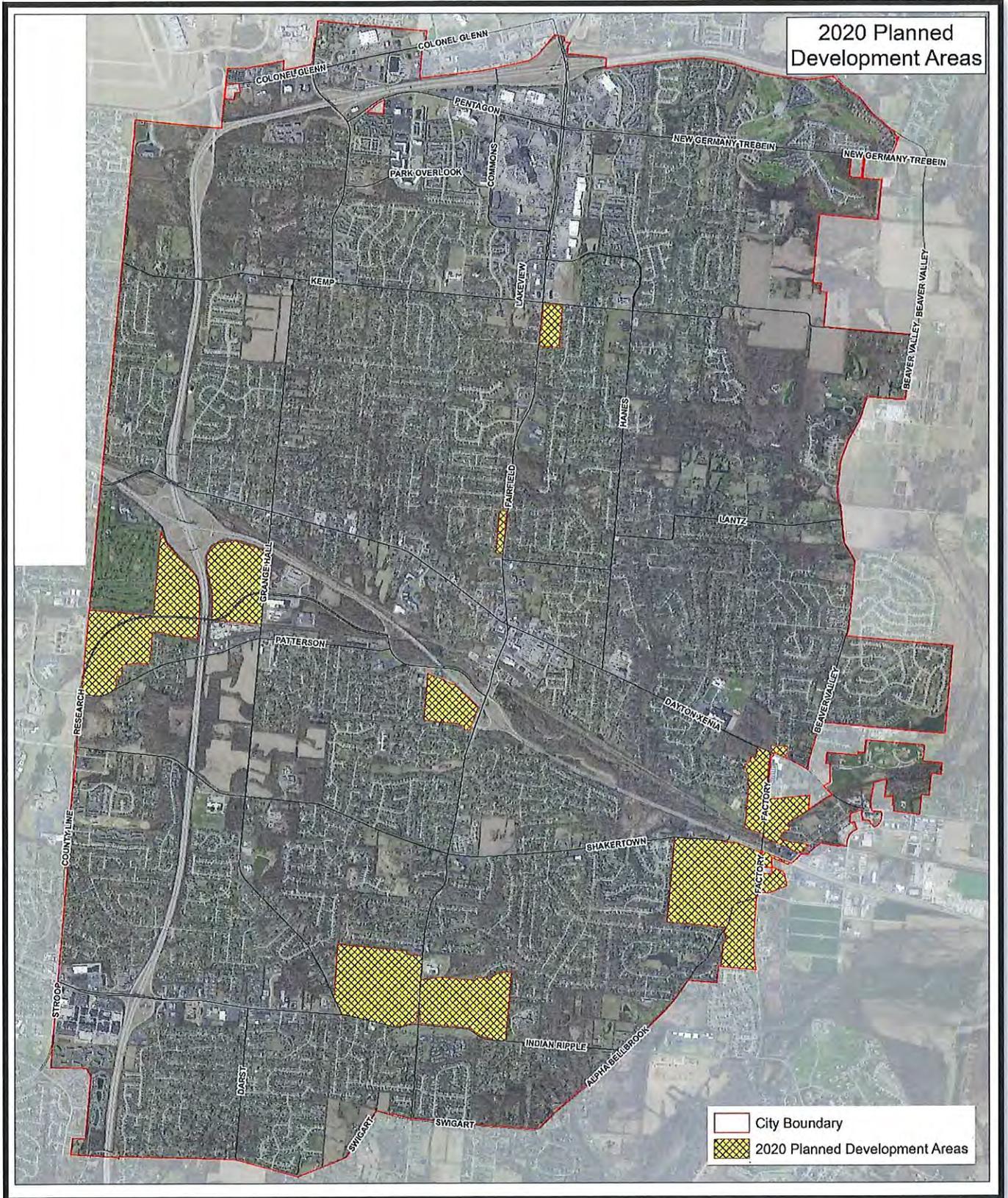


Exhibit A - The City of Beavercreek Land Use Map

The map ~~below~~ on the following page, listed as Exhibit A, is the Land Use Map for the City of Beavercreek. The map is the second major component of the Land Use Plan and graphically displays the first major component which would be the text found in the previous chapters of this comprehensive document. The different land use classifications are indicated by color and the uses associated with the different colors can be identified in the legend located on the map. There are also identification features in the Map, again, referenced in the legend, that indicate the location of the Vacant Planning Areas that remain in the City, Planned Development Areas, and the three Corridor Planning Areas (Indian Ripple Road, Dayton-Xenia Road and Colonel Glenn Highway). This map is intended to serve as a tool to guide the City's development decisions for the next several years, with periodic changes revisited and performed as warranted.

As noted on the map on the next page, the vast majority of the City is classified as Low Density Residential, and all residential (Low, Medium, High and Residential office) comprises of more than 68 percent of the City. Commercial classification (Neighborhood, Community, and Regional) makes up eight percent of the City's classification.

Land Use Classification	% of City
<u>High Density Residential</u>	<u>1.0%</u>
<u>Low Density Residential</u>	<u>63.0%</u>
<u>Medium Density Residential</u>	<u>3.8%</u>
<u>Residential Office</u>	<u>0.2%</u>
Total Residential	68.0%
<u>Neighborhood Commercial - Office</u>	<u>1.0%</u>
<u>Community Commercial - Office</u>	<u>3.1%</u>
<u>Regional Commercial - Office</u>	<u>4.3%</u>
Total Commercial	8.4%
<u>Office</u>	<u>1.5%</u>
<u>Mixed Use</u>	<u>5.2%</u>
<u>Research - Office</u>	<u>0.2%</u>
<u>Research and Development, Office, Light Industrial and Hi Tech Manf.</u>	<u>5.7%</u>
Total Office, Mixed Use and Research	12.6%
<u>Open Space - Public Use</u>	<u>6.9%</u>
<u>Right of Way</u>	<u>4.2%</u>
Total Public	11.0%

2020 Land Use Plan

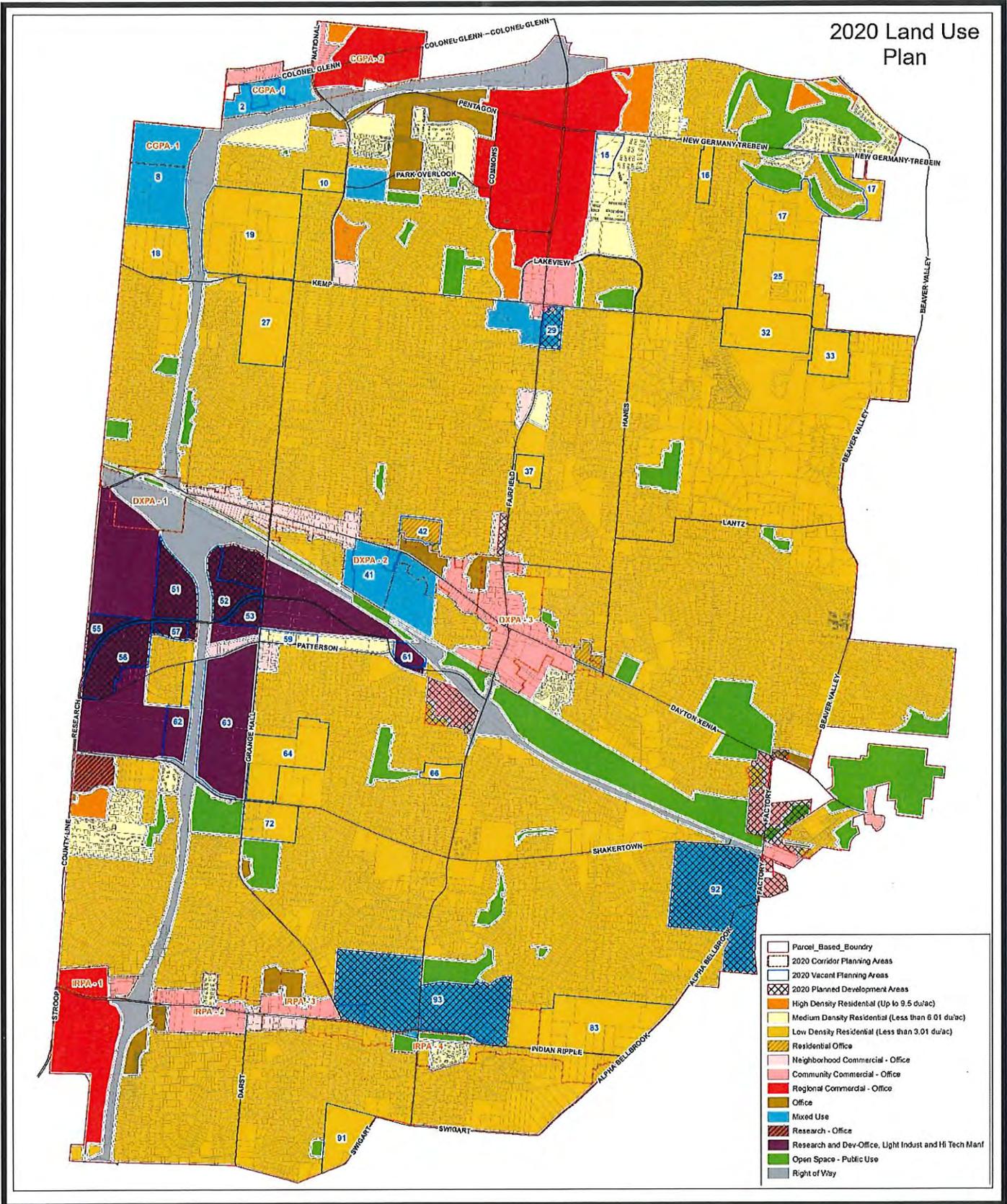
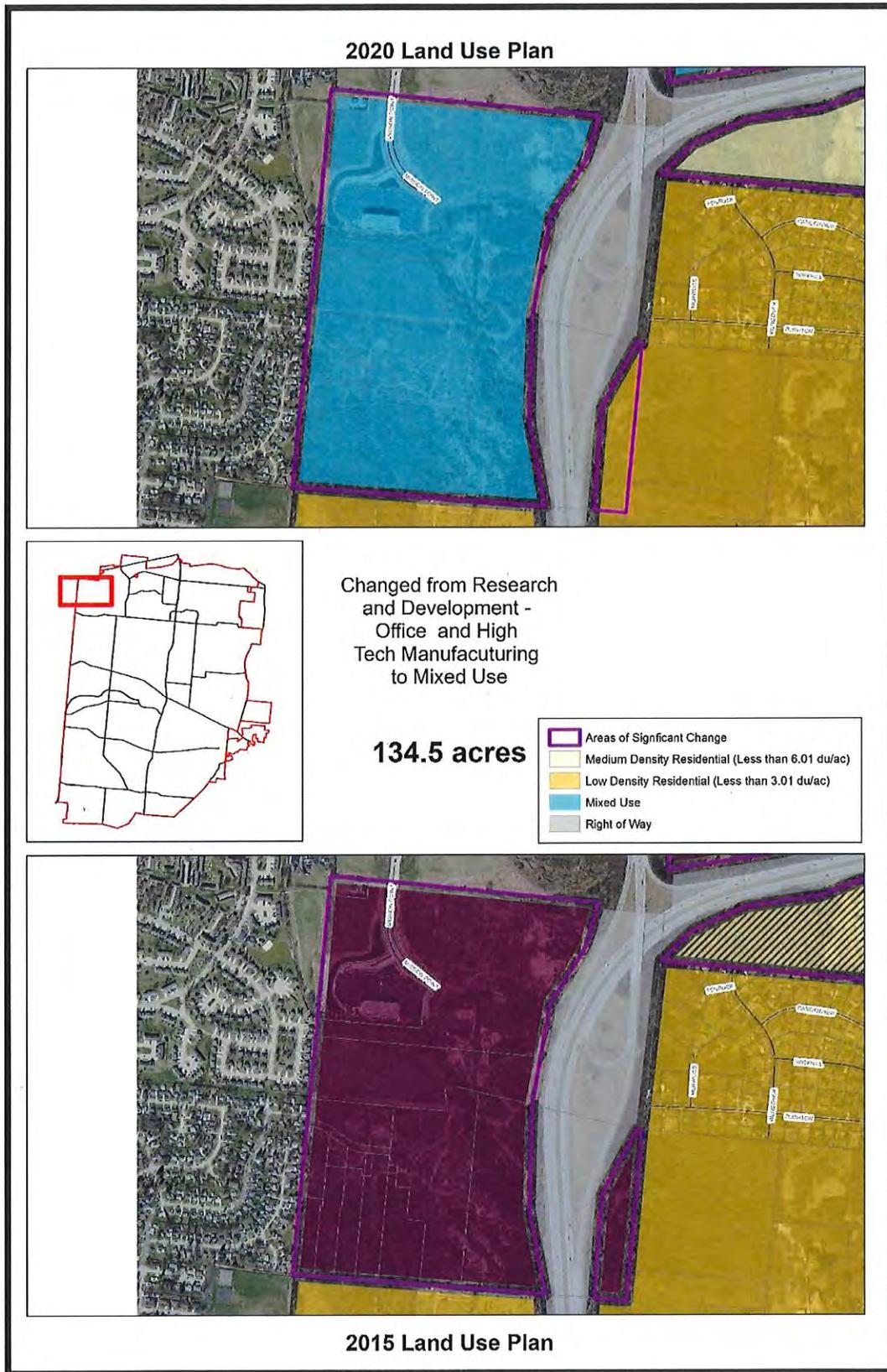
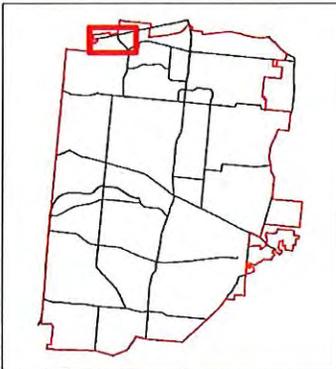
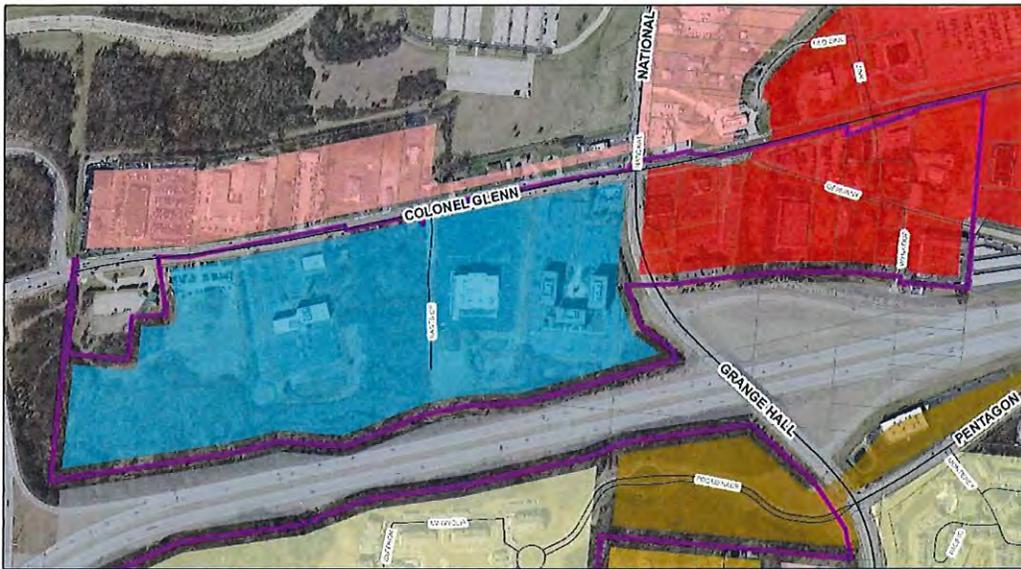


Exhibit B - Land Use Classification Changes 2015 - 2020*



Notes: The former classifications of Open Space/Recreation/Private and Public Facility were combined into Open Space - Public Use. Research/Commercial, Medium Density Residential-Office, and Open Space/ Recreation/Public were eliminated.

2020 Land Use Plan



Changed from Research and Development - Office and High Tech Manufacturing to Mixed Use and Regional Commercial - Office

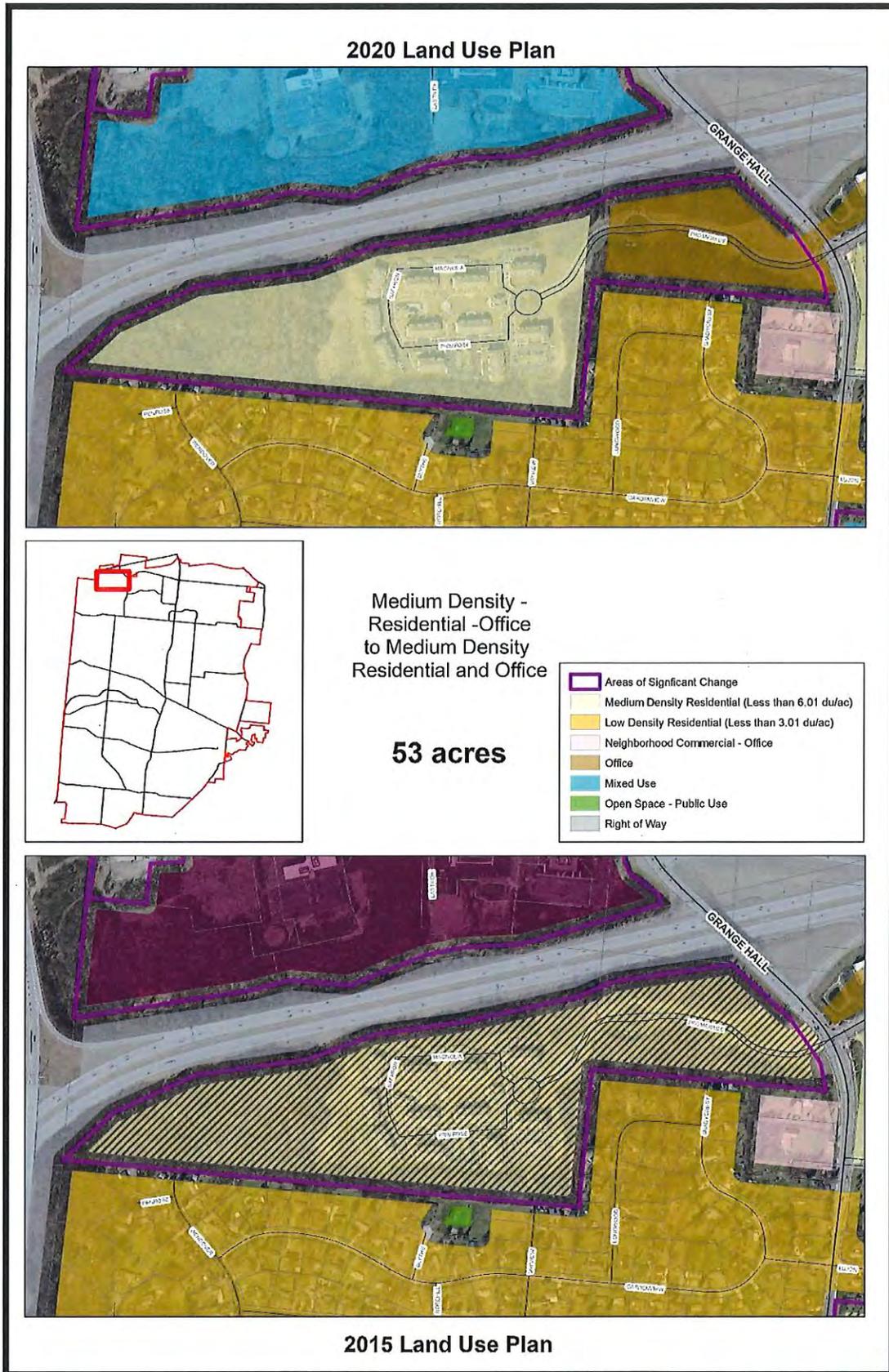
85.6 acres

	Areas of Significant Change
	Medium Density Residential (Less than 6.01 du/ac)
	Low Density Residential (Less than 3.01 du/ac)
	Neighborhood Commercial - Office
	Community Commercial - Office
	Regional Commercial - Office
	Office
	Mixed Use
	Right of Way

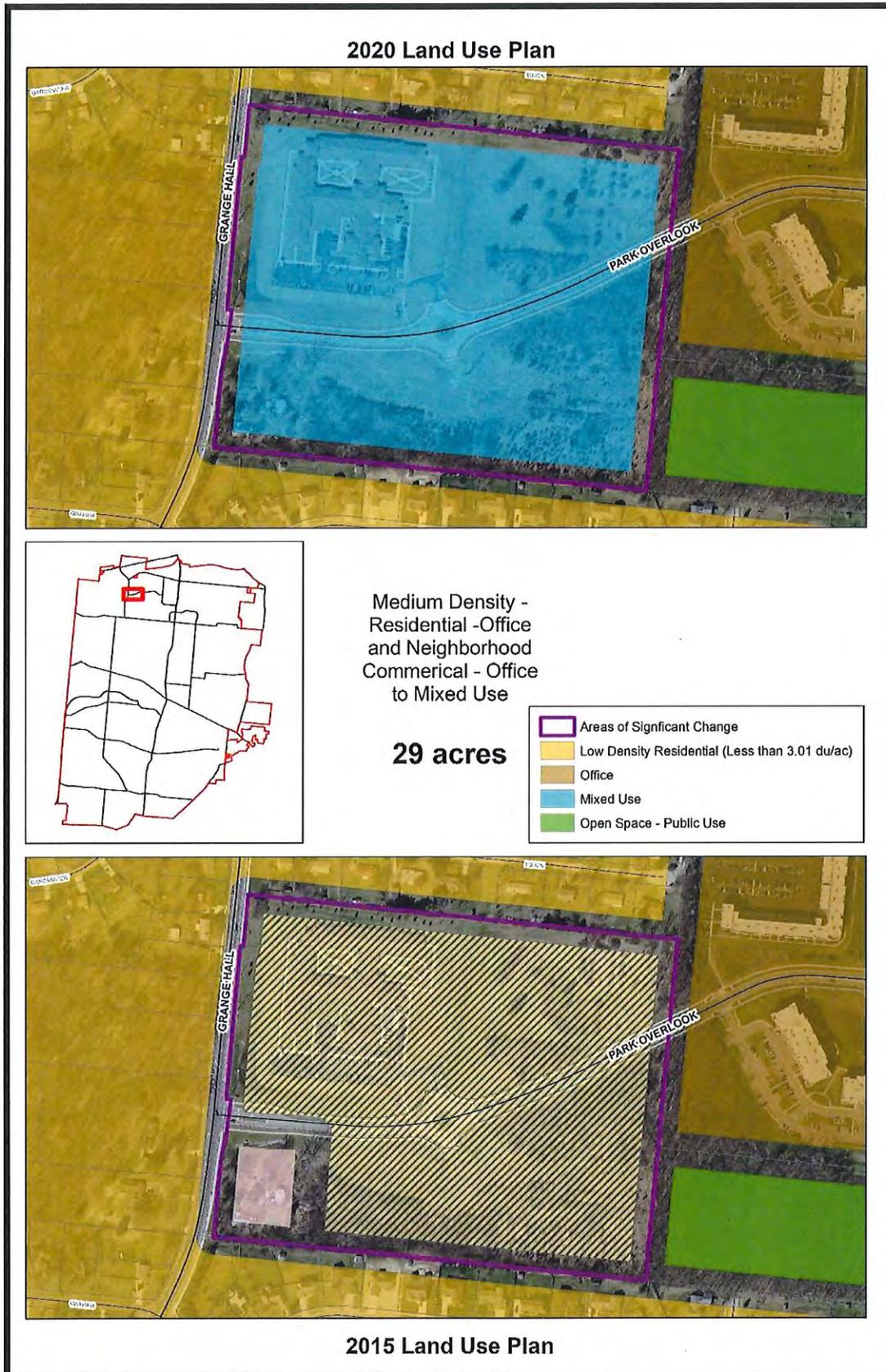
2015 Land Use Plan



Notes: The former classifications of Open Space/Recreation/Private and Public Facility were combined into Open Space - Public Use. Research/Commercial, Medium Density Residential-Office, and Open Space/Recreation/Public were eliminated.

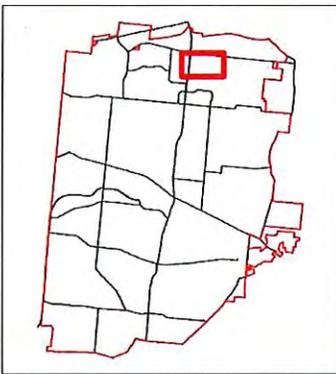


Notes: The former classifications of Open Space/Recreation/Private and Public Facility were combined into Open Space - Public Use. Research/Commercial, Medium Density Residential-Office, and Open Space/Recreation/Public were eliminated.



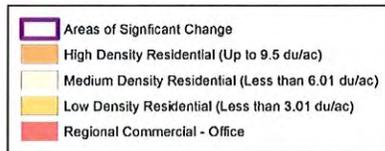
Notes: The former classifications of Open Space/Recreation/Private and Public Facility were combined into Open Space - Public Use. Research/Commercial, Medium Density Residential-Office, and Open Space/Recreation/Public were eliminated.

2020 Land Use Plan



From Office to
Medium Density
Residential

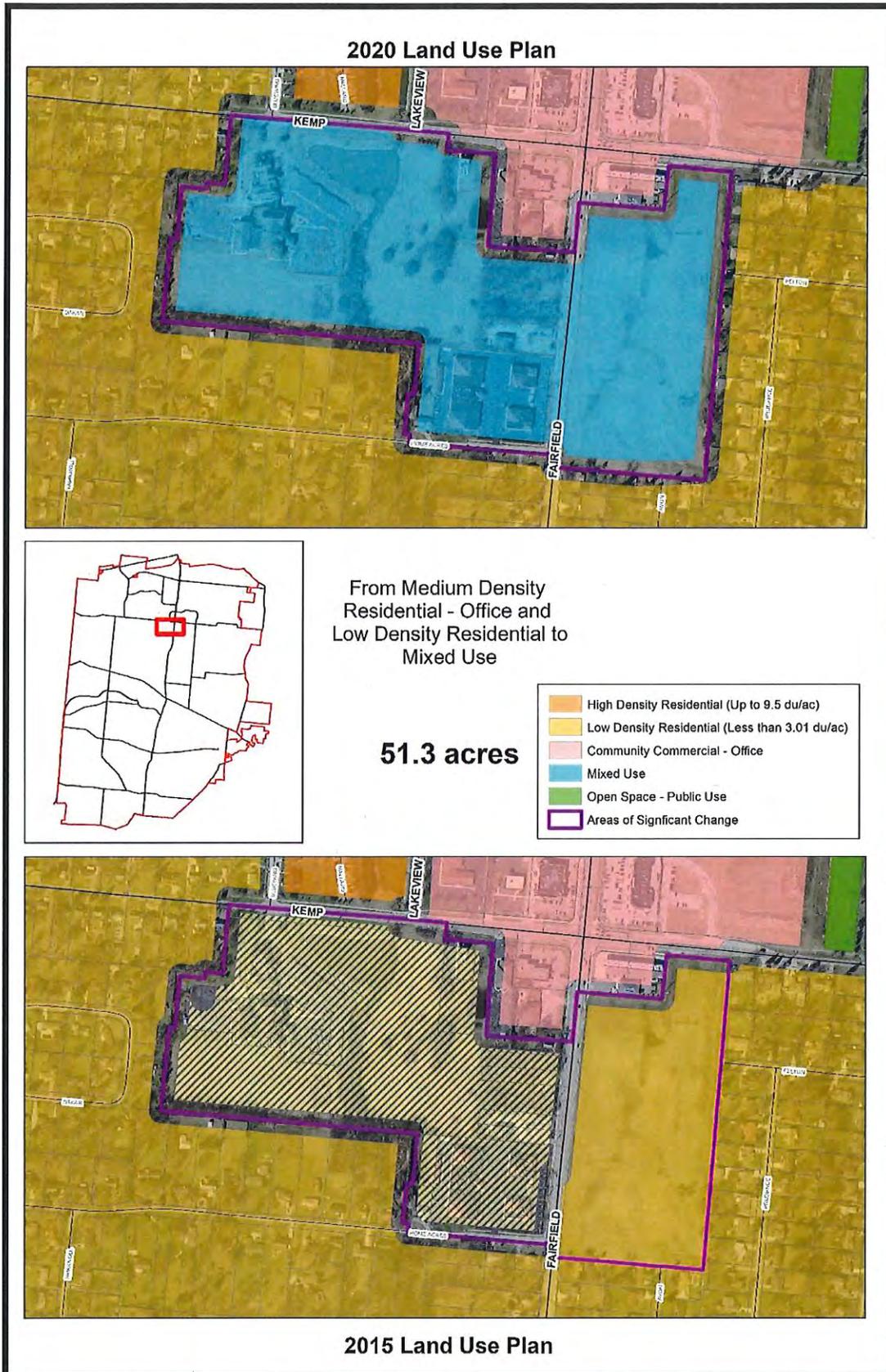
32.8 acres



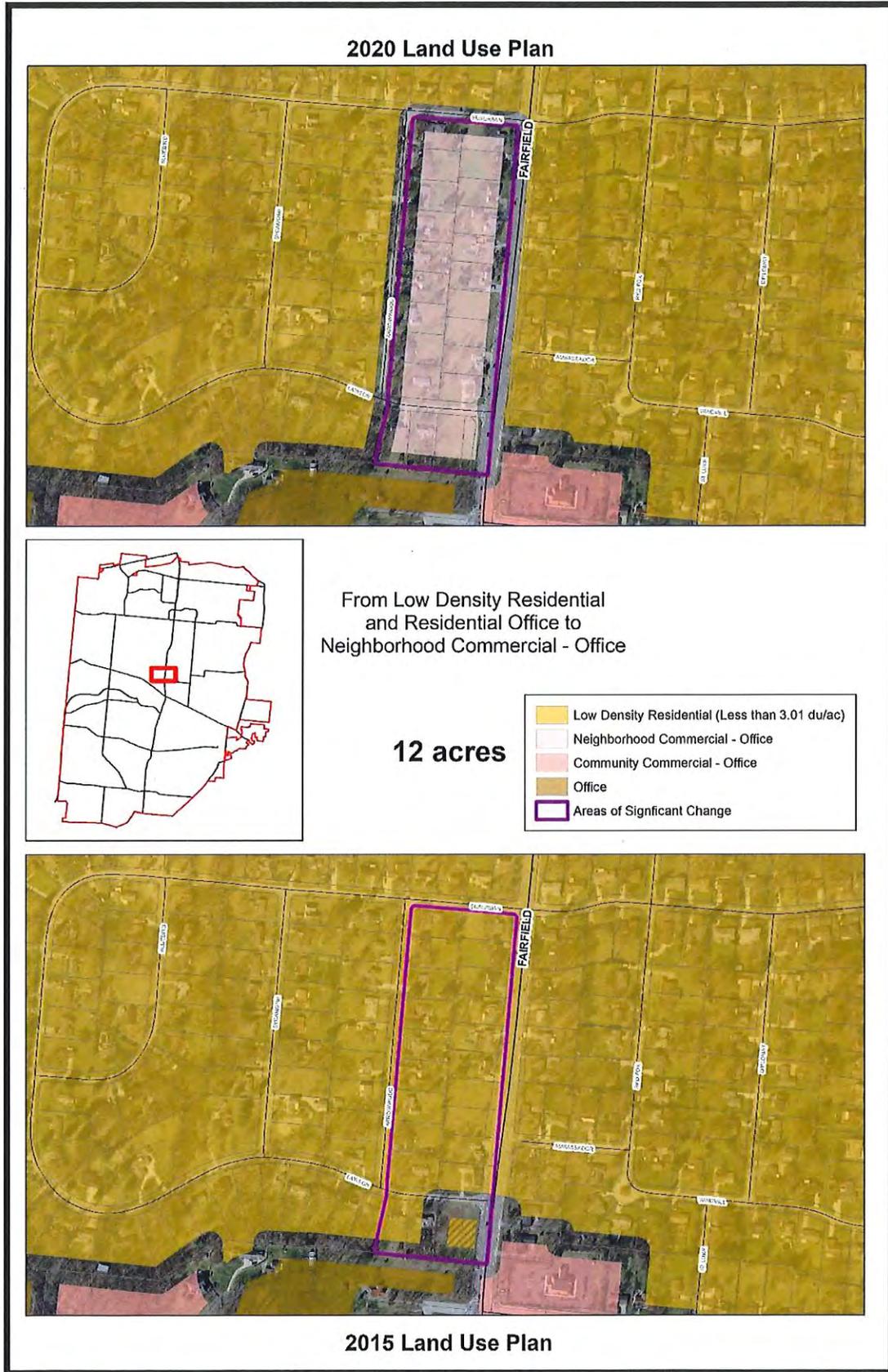
2015 Land Use Plan



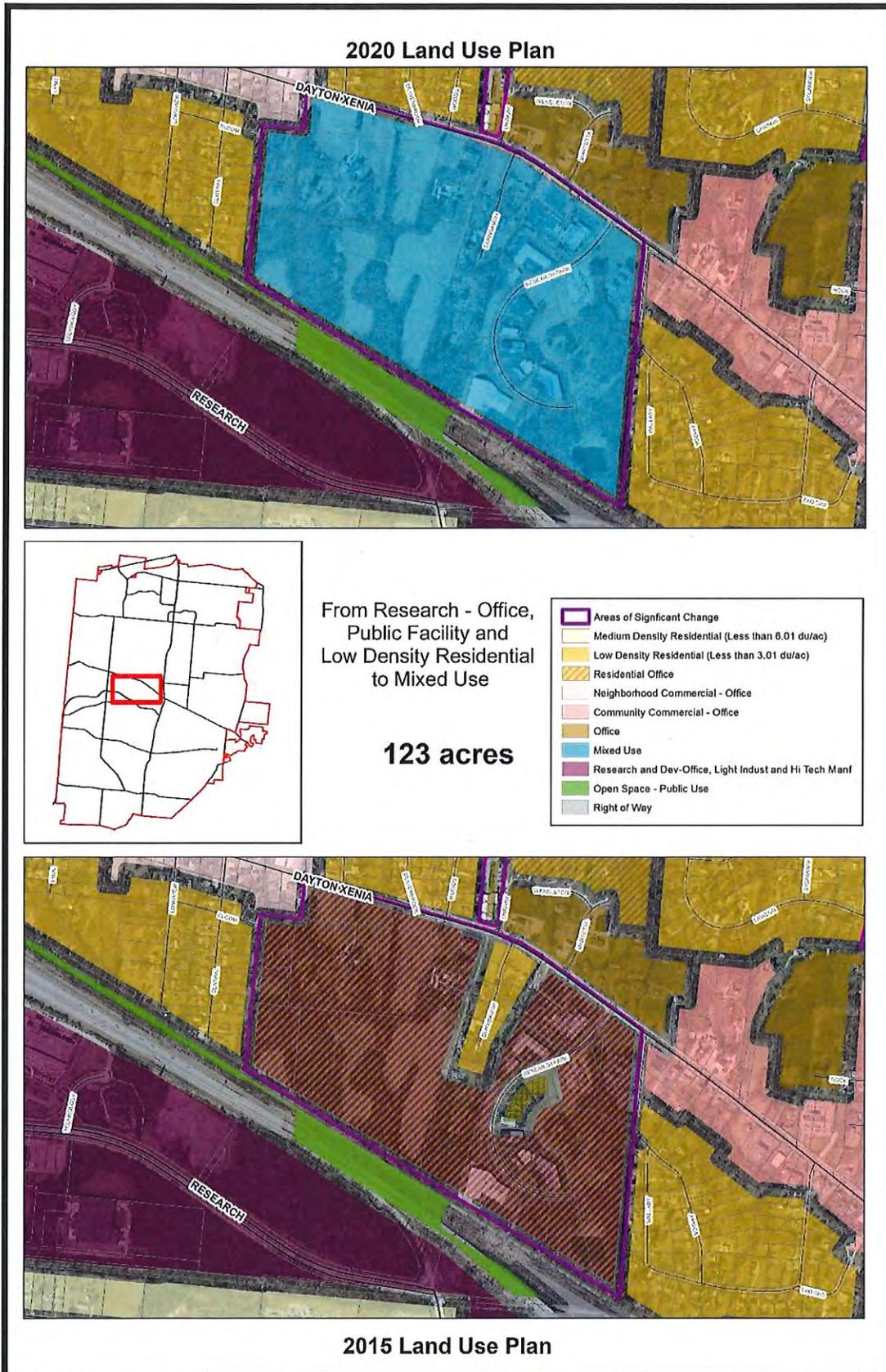
Notes: The former classifications of Open Space/Recreation/Private and Public Facility were combined into Open Space - Public Use. Research/Commercial, Medium Density Residential-Office, and Open Space/Recreation/Public were eliminated.



Notes: The former classifications of Open Space/Recreation/Private and Public Facility were combined into Open Space - Public Use. Research/Commercial, Medium Density-Office, and Open Space/ Recreation/Public were eliminated



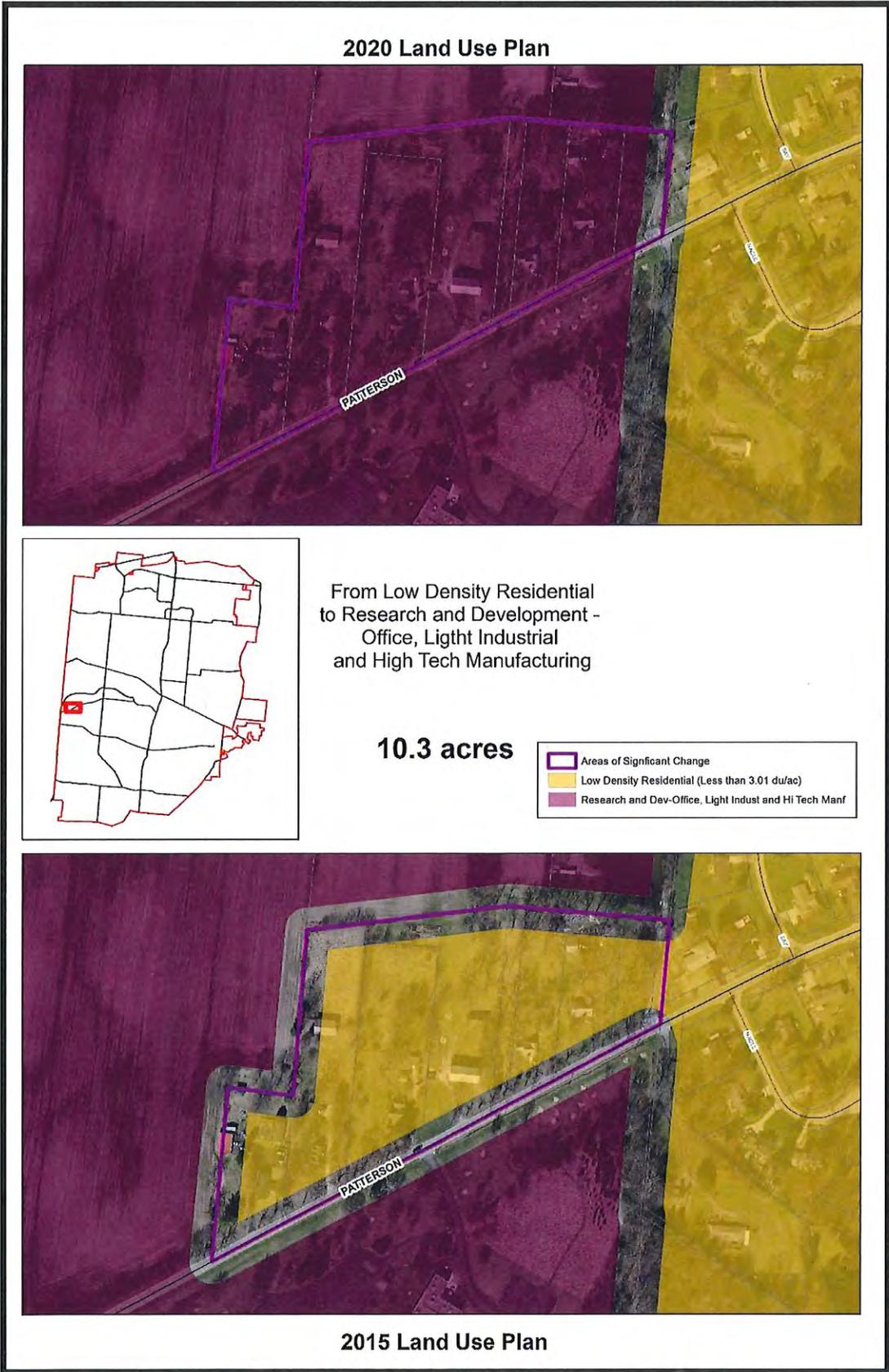
Notes: The former classifications of Open Space/Recreation/Private and Public Facility were combined into Open Space - Public Use. Research/Commercial, Medium Density-Office, and Open Space/ Recreation/Public were eliminated

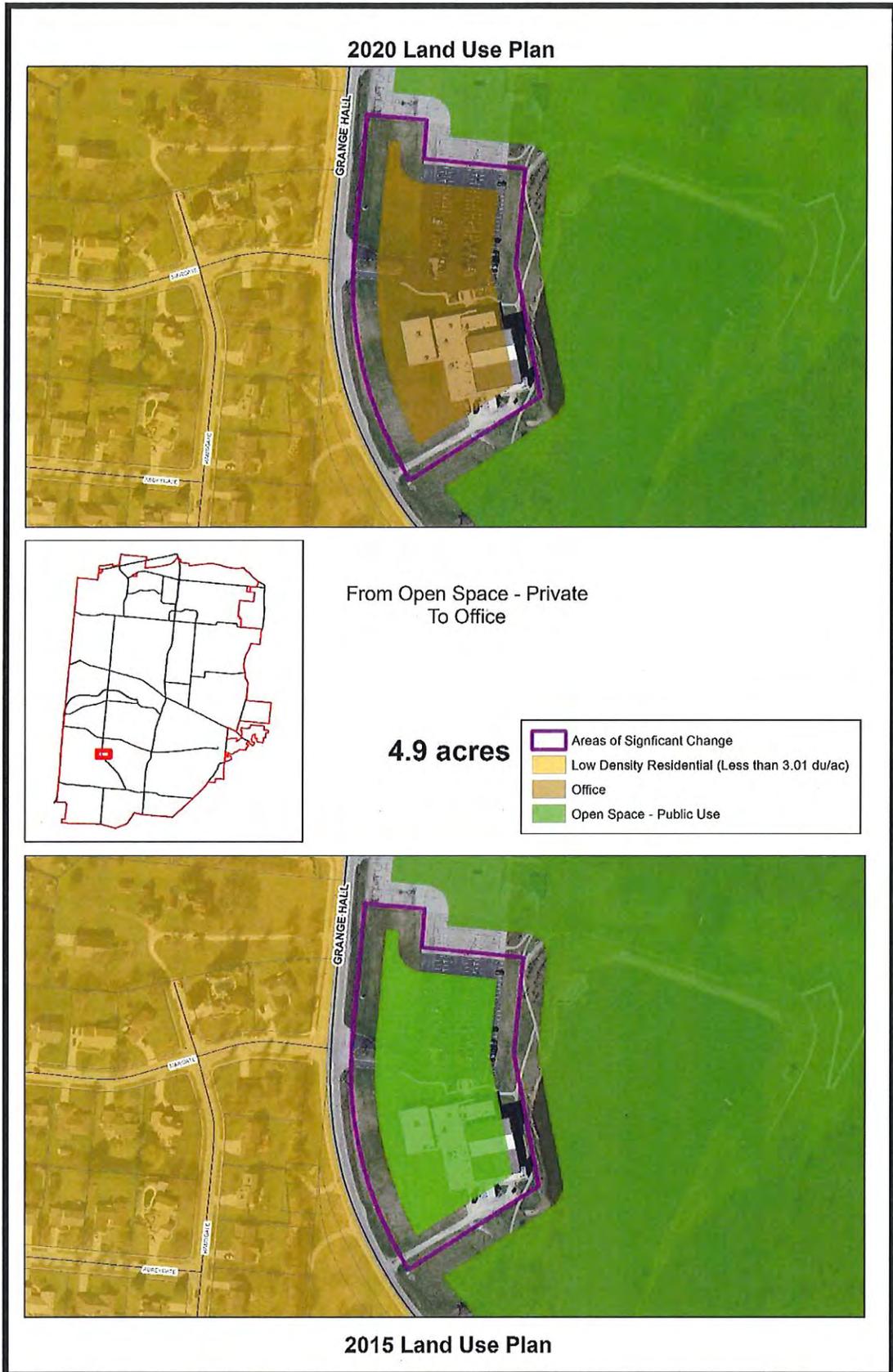


Notes: The former classifications of Open Space/Recreation/Private and Public Facility were combined into Open Space - Public Use. Research/Commercial, Medium Density-Office, and Open Space/ Recreation/Public were eliminated

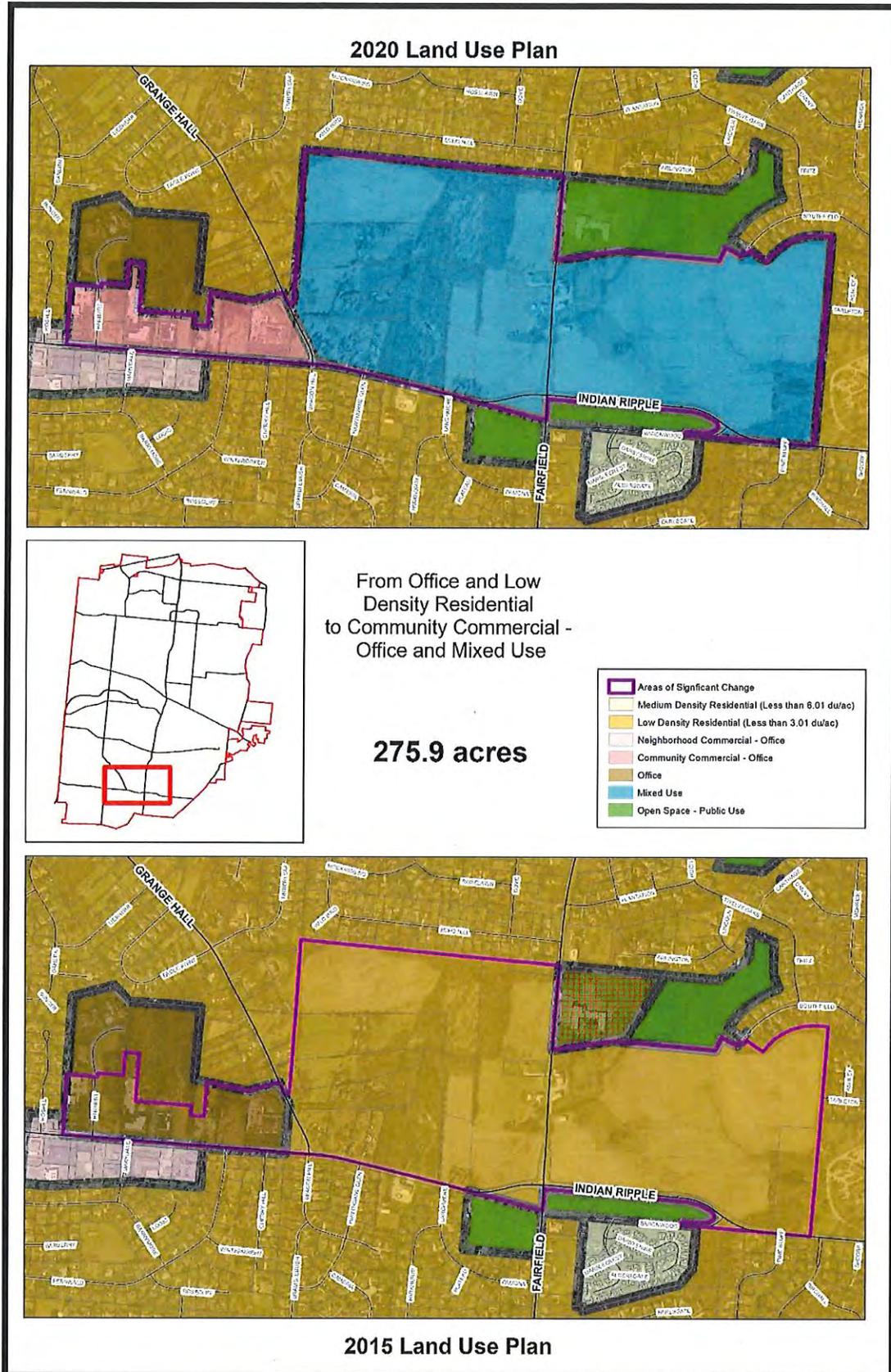


Notes: The former classifications of Open Space/Recreation/Private and Public Facility were combined into Open Space - Public Use. Research/Commercial, Medium Density-Office, and Open Space/ Recreation/Public were eliminated

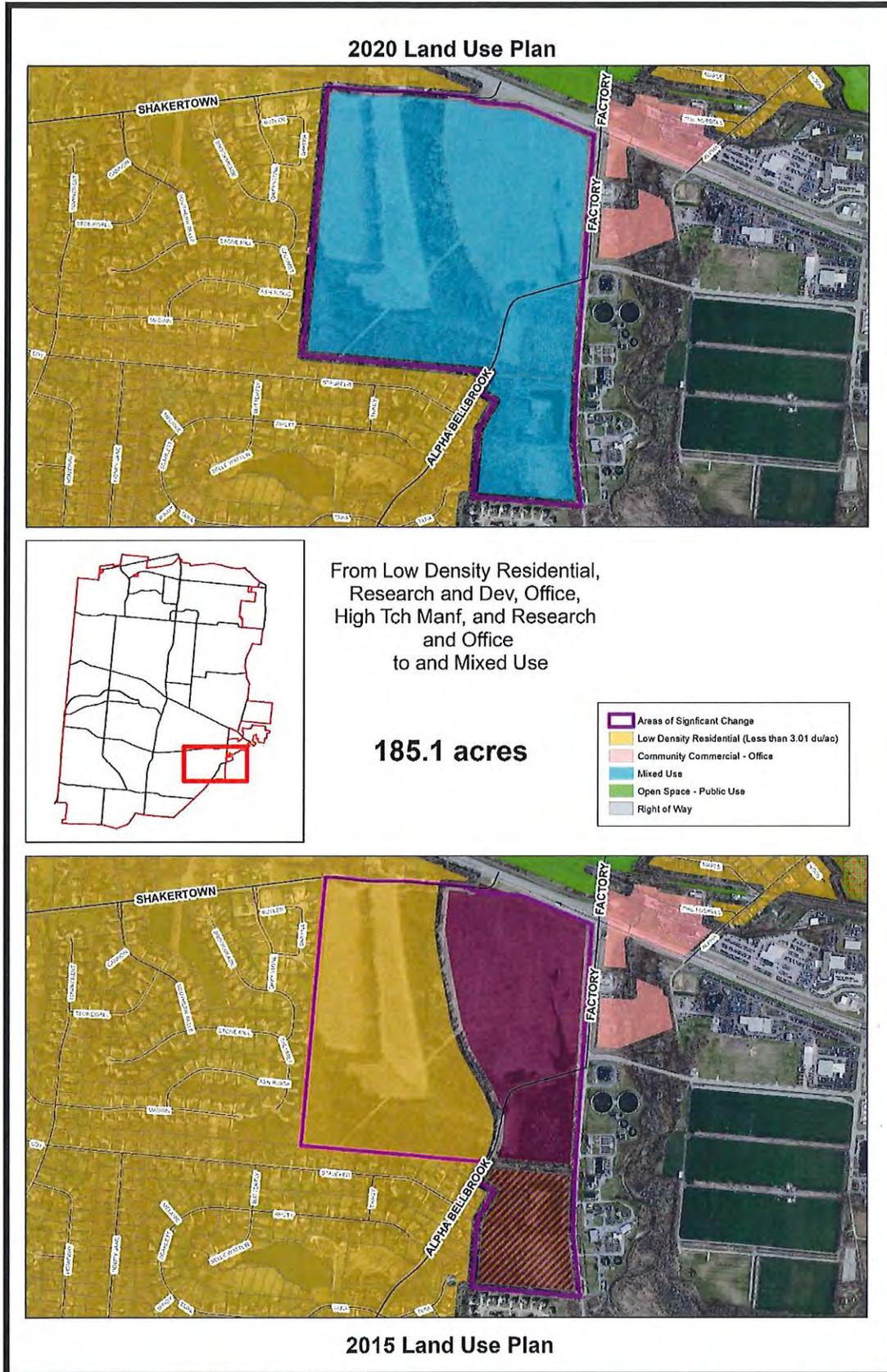




Notes: The former classifications of Open Space/Recreation/Private and Public Facility were combined into Open Space - Public Use. Research/Commercial, Medium Density-Office, and Open Space/ Recreation/Public were eliminated

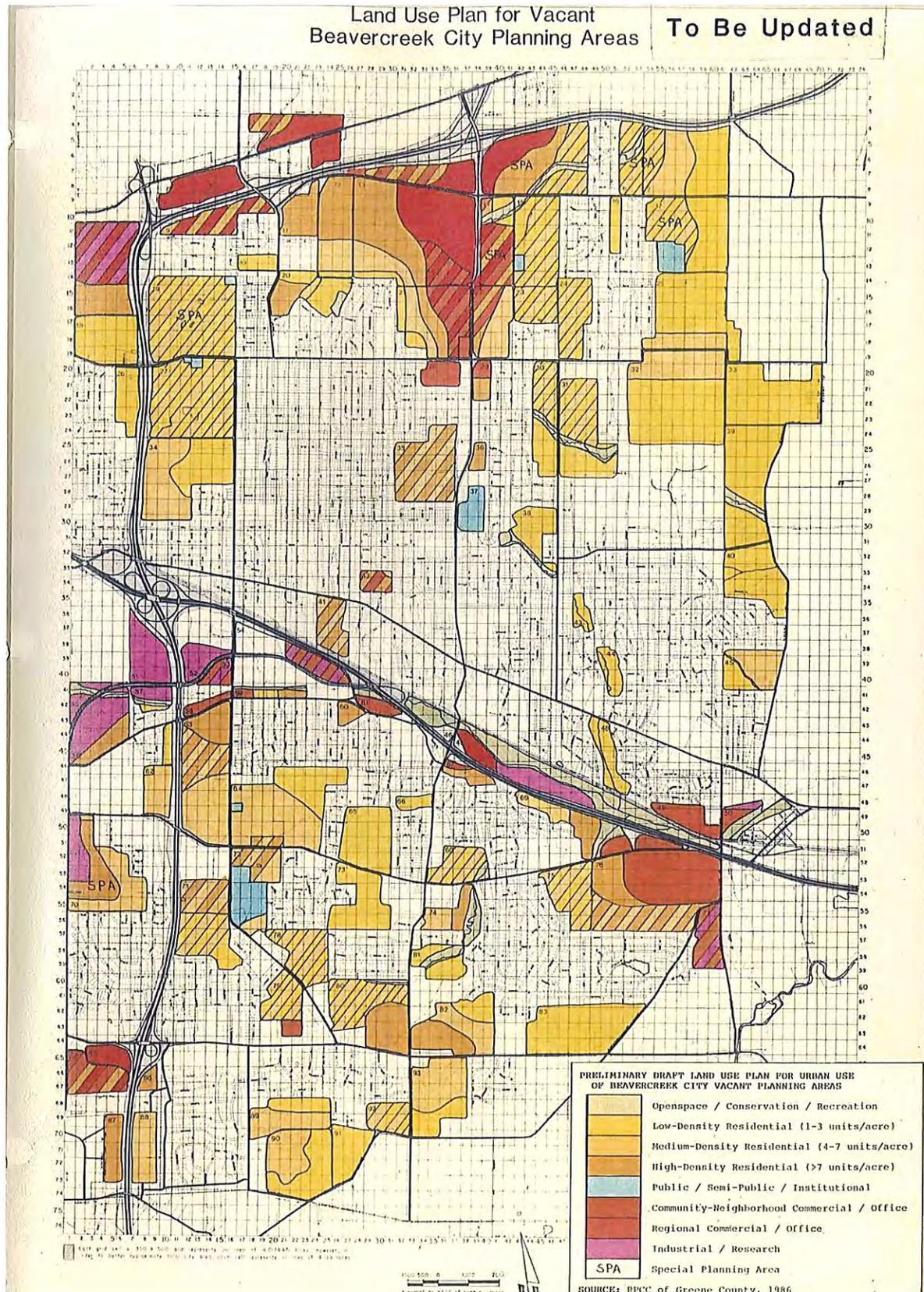


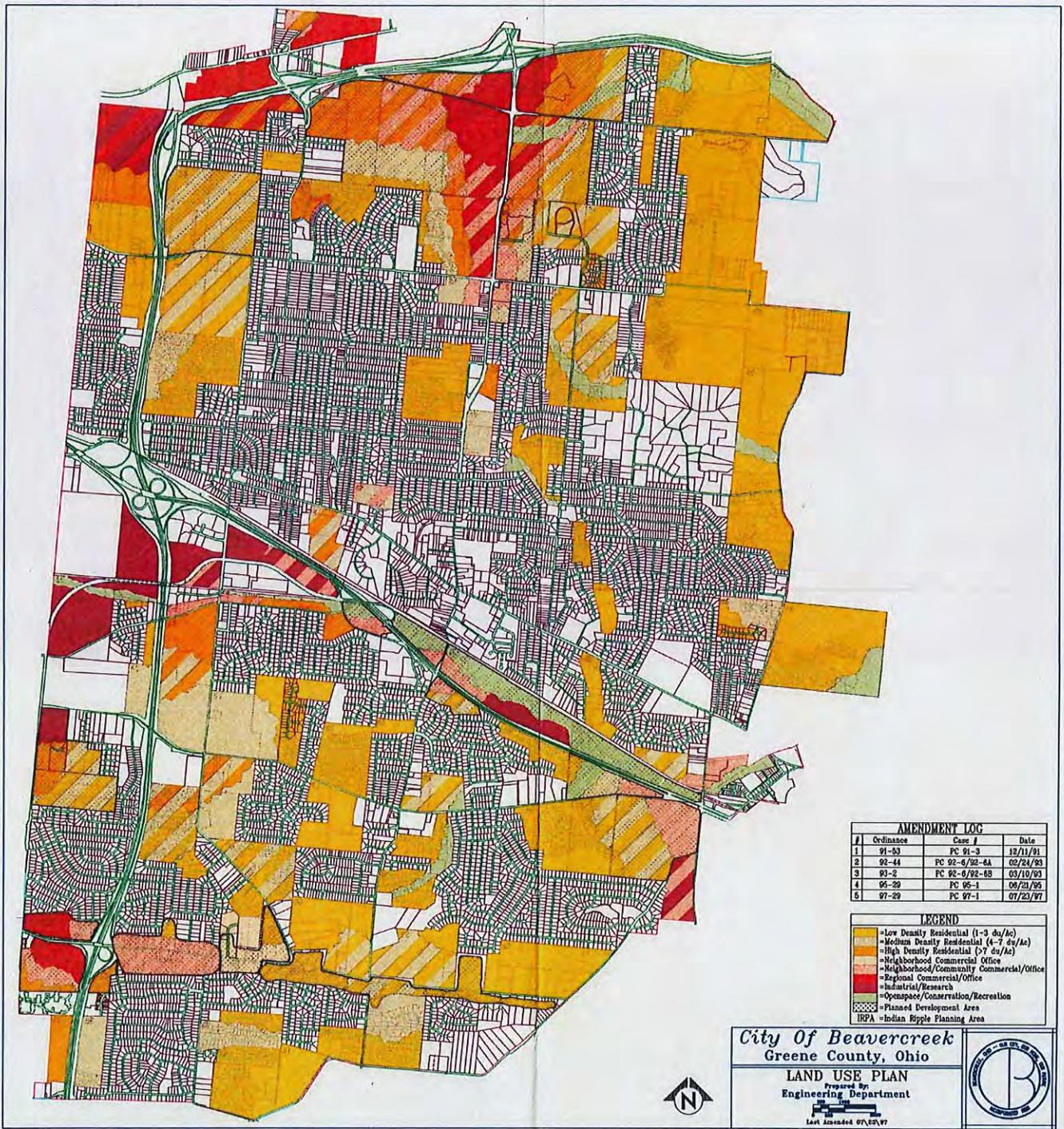
Notes: The former classifications of Open Space/Recreation/Private and Public Facility were combined into Open Space - Public Use. Research/Commercial, Medium Density-Office, and Open Space/ Recreation/Public were eliminated



Notes: The former classifications of Open Space/Recreation/Private and Public Facility were combined into Open Space - Public Use. Research/Commercial, Medium Density-Office, and Open Space/ Recreation/Public were eliminated

Exhibit C - Former Land Use Maps for Beavercreek





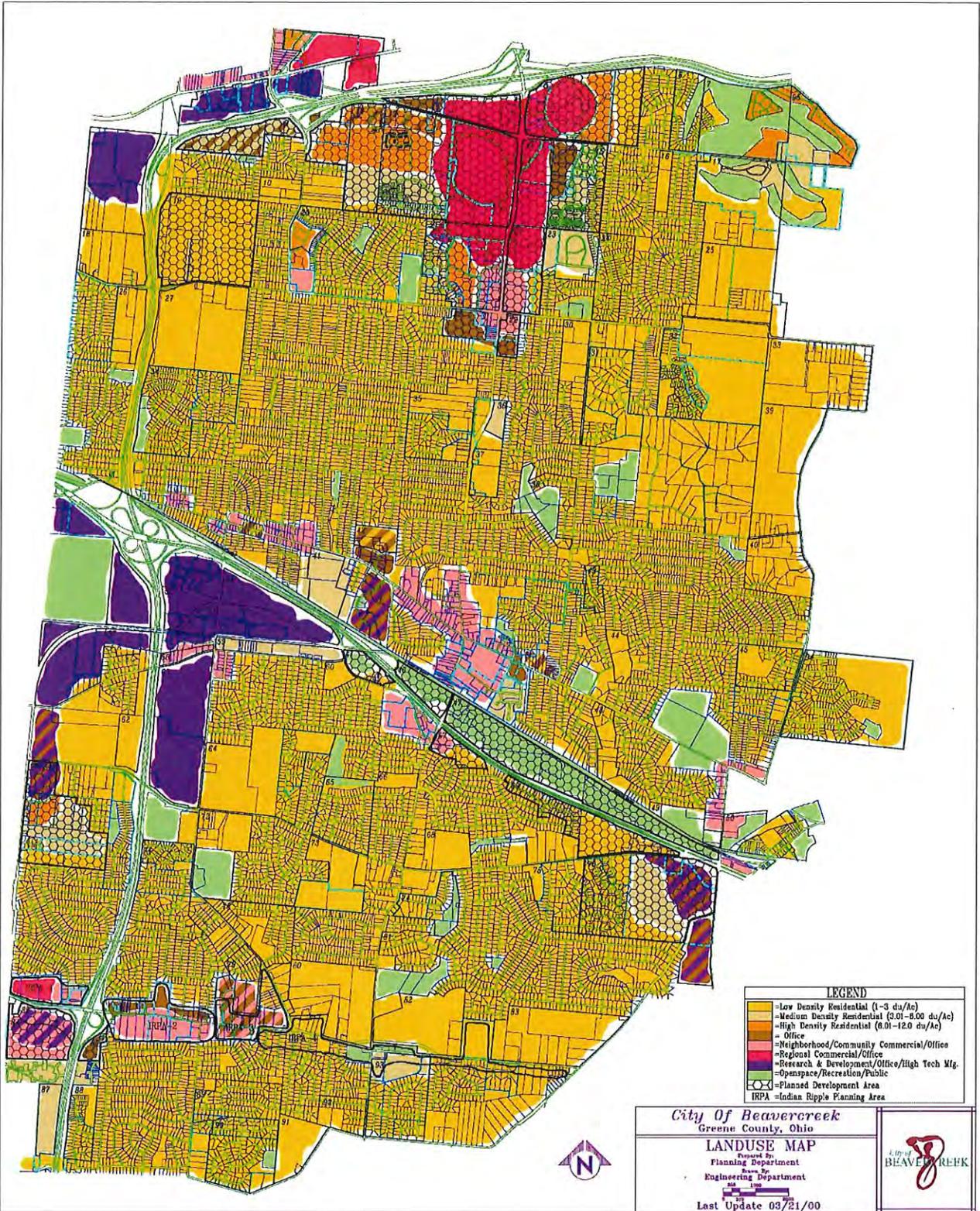
AMENDMENT LOG

#	Ordinance	Case #	Date
1	91-53	PC 91-3	12/11/91
2	92-44	PC 92-3/92-4A	02/24/93
3	93-2	PC 92-0/92-8B	03/10/93
4	95-29	PC 95-1	06/21/95
5	97-29	PC 97-1	07/23/97

- LEGEND**
- = Low Density Residential (1-3 du/Ac)
 - = Medium Density Residential (4-7 du/Ac)
 - = High Density Residential (8-17 du/Ac)
 - = Neighborhood Commercial/Office
 - = Regional Commercial/Office
 - = Industrial/Research
 - = Open Space/Conservation/Recreation
 - = Planned Development Area
 - IRPA = Indian Ripple Planning Area

City of Beavercreek
 Greene County, Ohio
LAND USE PLAN
 Prepared by:
Engineering Department
 Last Amended 07/23/97





City of Beavercreek Land Use Map 2009 Amendment

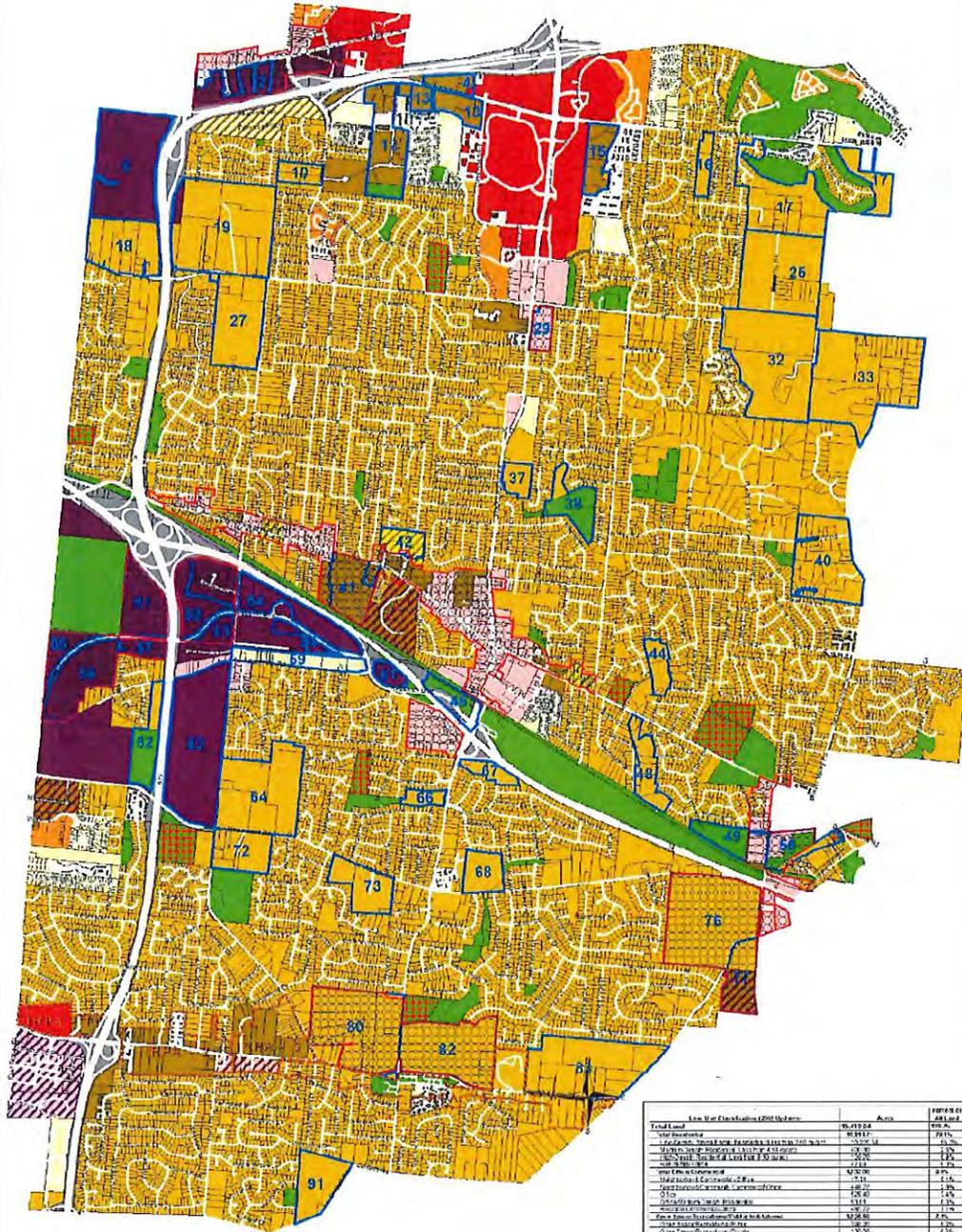


Exhibit A

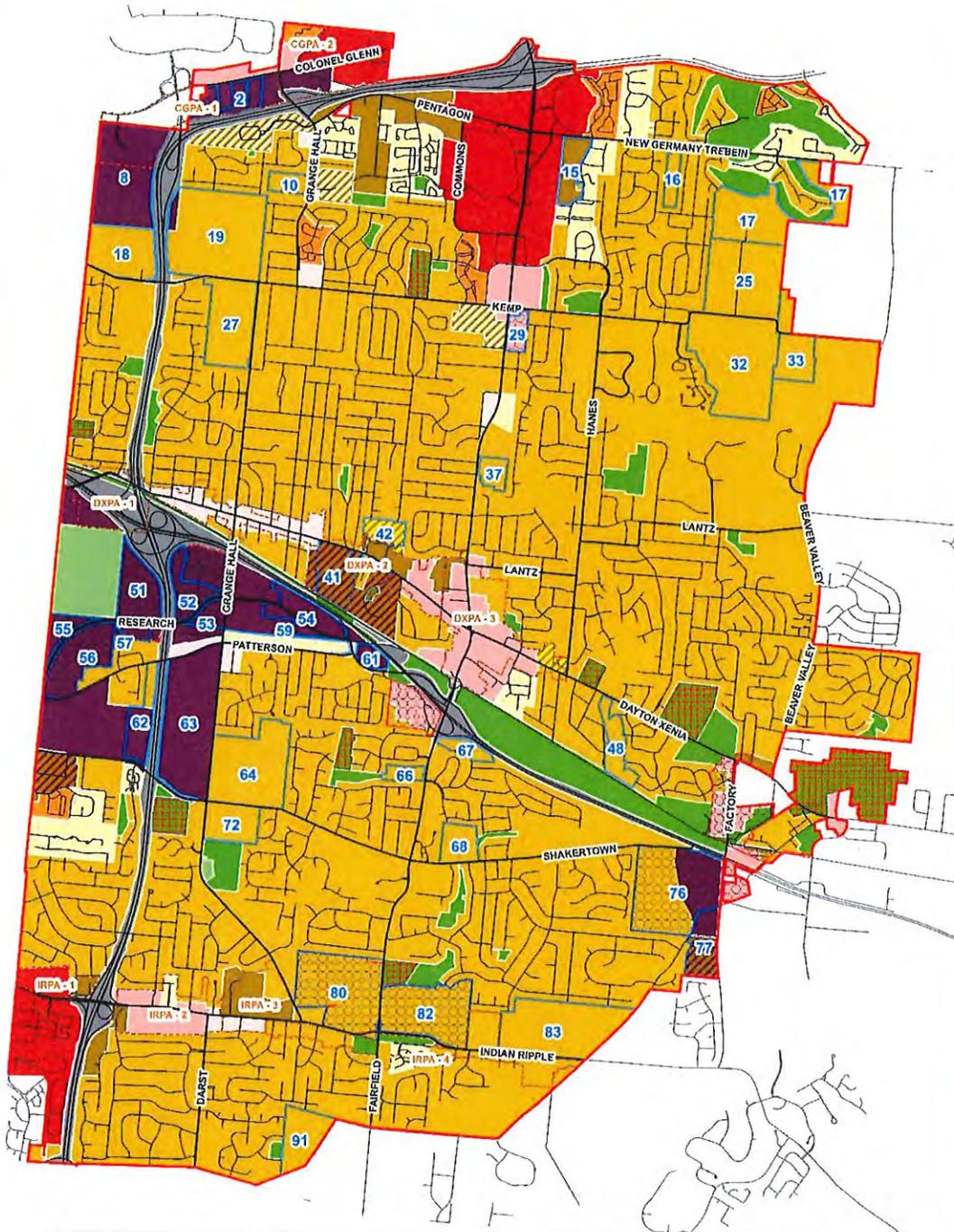
Area	Area	Percent of Total Area
Trunk Road	10,000	0.4%
Other Roadway	10,000	0.4%
Neighborhood Commercial/Community Commercial Office	10,000	0.4%
Office	10,000	0.4%
Office-Medium Density Residential	10,000	0.4%
Open Space/Recreation/Private	10,000	0.4%
Open Space/Recreation/Public	10,000	0.4%
Public Facility	10,000	0.4%
Regional Commercial Office	10,000	0.4%
Research & Development Office/High Tech Mfg	10,000	0.4%
Research Commercial	10,000	0.4%
Research and Office	10,000	0.4%
Residential Office	10,000	0.4%
Roads	10,000	0.4%

- City Boundary
- Indian Ridge Planning Areas
- Planned Development Areas
- Vacant Planning Areas
- High-Density Residential (Less than 0.50 du/Ac)
- Medium-Density Residential (Less than 4.50 du/Ac)
- Low-Density, Single Family Residential (Less than 2.50 du/Ac)
- Neighborhood Commercial - Office
- Neighborhood/Community Commercial Office
- Office
- Office-Medium Density Residential
- Open Space/Recreation/Private
- Open Space/Recreation/Public
- Public Facility
- Regional Commercial Office
- Research & Development Office/High Tech Mfg
- Research Commercial
- Research and Office
- Residential Office
- Roads



Map Created:
March 23, 2009

2015 Land Use Map



Legend			
	City Boundary		Regional Commercial - Regional Office
	2015 Corridor Planning Areas		Community Commercial - Community Office
	2015 Vacant Planning Areas		Neighborhood Commercial - Neighborhood Office
	2015 Planned Development Areas		Research and Development - High Tech Mfg.
	High-Density Residential (Up to 9.50 du/Ac)		Research and/or Commercial
	Medium Density Residential (Less than 5.51 du/Ac)		Research and/or Office
	Low Density Residential (Less than 3.01 du/Ac)		Residential Office
	Open Space - Recreation (Private)		Roads
	Open Space - Recreation (Public)		
	Public Facility		

PC

**CITY OF BEAVERCREEK
CITY COUNCIL
AGENDA ITEM REPORT**

Meeting Date: July 27, 2020	Reference Topic: PC 20-4 Zoning Code Update
Agenda Reference No. VIII. A-D	Ordinance 20-16

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 _____

REQUEST FOR REVIEW

Attached is a strikethrough copy of the proposed changes to the City's Zoning Code.

RECOMMENDATION:

Planning Commission and staff recommend approval of this project as described in the attached ordinance.

PROCEDURAL OPTIONS FOLLOWING ACTION:

City Council may choose to approve, disapprove, modify or table this project for further review.

ORDINANCE NO. 20-16

CITY OF BEAVERCREEK

SPONSORED BY COUNCIL MEMBER _____ ON THE
27TH DAY OF JULY, 2020.

AN ORDINANCE AMENDING THE ZONING CODE IN ACCORDANCE WITH CHAPTER 158.175 OF THE CITY OF BEAVERCREEK ZONING CODE.

WHEREAS, the City of Beavercreek Planning Commission has determined it necessary to make certain additions, deletions and changes to the City of Beavercreek Zoning Code; and

WHEREAS, following a public hearing held on July 13, 2020, Planning Commission voted to recommend the additions, deletions and changes to the City of Beavercreek Zoning Code to Beavercreek City Council; and

WHEREAS, the City Council has voted to adopt the recommendation of the Planning Commission with amendments, this being a decision that requires approval by four members of Council.

NOW, THEREFORE THE CITY OF BEAVERCREEK HEREBY ORDAINS:

SECTION I

The current language, numbers and words of various sections of the City of Beavercreek Zoning Code shall be, and hereby is, amended with the additions, deletions and changes as described in Attachment A, dated May 26, 2020.

SECTION II

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 III

This Ordinance shall take effect from and after the earliest period allowed by law.

PASSED this _____ day of _____, 2020.

Bob Stone, Mayor

ATTEST:

Dianne Miscisin, Clerk of Council

SUMMARY

This Ordinance adopts the proposed changes to the City of Beavercreek Zoning Code as described in Attachment A dated May 26, 2020.

This is not an emergency ordinance and will become effective 30 days after passage.



To: City Council

From: Sandra C. Pereira, City Planner

Re: 2020 Zoning Code Update

Date: 23 July 2020

Over past several months, staff has been working on draft language to amend several sections of the Zoning Code. Council preliminarily reviewed the majority of these proposed changes in a work session that included addressing commercial solar farm and adjustments to parking requirements. Since that time, additional changes have been made specifically addressing fence heights and types in residential and agricultural districts and some minor clarifications in other areas of the code. Attached is a copy of a comprehensive list of the recommended changes. As we have done in the past, all **red bold** text represents proposed changes as outlined in 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. ~~Additions shall be architecturally compatible with the existing principal structure with respect to materials used, height and scale.~~

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 BOOKSTORE.** 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.

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 6 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 6 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 elements, telecommunications demarcation boxes, grounding equipment, power transfer 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

(b) Eave penetration is used for perpendicular descent of heating/cooling lines from the roof to the exterior building wall surfaces.

(C) *General provisions for all panels.*

(1) All mounting brackets and related structural supports extending more than three inches above the roof surface shall be covered in a manner architecturally compatible with the building to screen from public visibility and/or abutting properties.

(2) All solar equipment, except portions of the collectors that must be black or clear glass or plastic to allow light transmission or heat absorption, including mounting brackets and/or screening materials, shall match the abutting surface color.

(3) No portion of any roof-mounted solar equipment may extend above the ridge line or below the gutter line.

(D) *Ground mounted panels.* Ground-mounted panels shall conform to the following:

(1) The collectors and all related mechanical equipment shall be located in the side or rear yard only;

(2) Shall not exceed eight feet in height above the adjacent grade; and

(3) All related mechanical equipment, other than the actual photoelectric panels, shall be fully screened from the adjacent properties by fencing or a combination of evergreen and deciduous plantings.

(E) *Permit required.* An accessory structure permit must be approved by the Planning and **Zoning Development** Department prior to the installation of any solar panels or related equipment **and must also meet the same setback requirements.**

(F) *Rights to access.*

(1) *Purpose.* To establish the rights of those persons that have elected to use solar energy for heating/cooling their homes, heating their hot water supplies and/or heating their swimming pools.

(2) *Designation of solar access areas.* Hereafter, in new developments or sections of new developments that have been designated by the developer as being solar access areas, the property owners are required to consider the effects of the location of structures and trees on their property in relation to the property of those neighbors to the east, north and west of them to insure that the structures and trees do not block the neighbors' houses from direct access to the sun's energy.

(3) *Determination of field of view.* For purposes of determining the location of the field of view of the house, it can be assumed that the area to be provided access to the sun's energy is an area located in elevation ten feet above the normal ground level, hereafter referred to as "the plane," 40 feet from the front property line, 50 feet from the rear property line and ten feet from the side property lines for lots 100 to 140 feet wide or a width not to exceed plus 50 feet from a point midway between the side property lines for lots in excess of 140 feet wide.

(E) *Maximum size.*

(1) Residential districts.

(a) Within any residential district where the footprint of the principal structure is less than 1,200 square feet, the sum of the footprint of all accessory buildings shall not exceed 600 square feet.

(b) In the case where the footprint of the principal structure is greater than 1,200 square feet, the sum of the footprint of all accessory buildings shall not exceed 50% of the footprint of the principal structure, or 900 square feet, whichever is less.

(c) In cases where the lot size is 20,000 square feet or greater, the sum of the footprint of all accessory buildings shall not exceed 50% of the footprint of the principal structure.

(d) Covered porches attached to the accessory structure shall count towards the maximum square footage allowed.

(2) Within any commercial district, excluding I-1 and I-2 districts, there shall be no more than one accessory building, which shall not have a footprint greater than 100 square feet.

(F) *Breezeways.* If an accessory structure is attached to a principal structure by a breezeway, it shall not be considered part of the principal structure, unless said breezeway meets all of the following criteria:

(1) The accessory structure and the principal structure are no more than 12 feet apart.

(2) The breezeway and the accessory structure are constructed of building materials and color consistent with the principal structure and shall be fully enclosed.

(3) The breezeway and the accessory structure are designed, in terms of height and roof pitch, consistent with the principal structure.

(4) If the structure does not meet the above criteria, it shall not be considered part of the principal structure, and must meet all setbacks and size requirements of accessory structures.

(5) Breezeways that are longer than 12 feet, or are not architecturally compatible with the principal structure, shall be considered an accessory structure, and will be counted toward maximum accessory structure square footage.

(G) *Carports.*

(1) Carports which are permanently affixed to the principal structure shall be located in the rear or side yards, but outside of the required rear or required side yards.

(2) Carports which are not permanently affixed to the principal structure shall be located in the rear yard only, and the square footage of such carport is to be considered as, and counted toward, allowed accessory structure square footage and shall be located on the property in accordance with this division.

(3) Carports must be constructed of a rigid material. Carports attached to the existing principal

structure must be architecturally compatible with said principal structure.

(H) *Propane tanks.* A maximum of two propane tanks may be permitted within the side yards in any residential district. Said tanks shall not exceed five feet in height and the capacity shall not exceed 24 gallons each. Said tanks must be completely screened from view from both the adjacent roadway and from the adjoining property to the side. Screening may be accomplished through the use of either landscaping materials or fencing. One 48 gallon tank, not to exceed five feet in height, may be permitted in the side yard in lieu of two 24 gallon tanks. Said tank must be completely screened from view from both the adjacent roadway and from the adjoining property to the side. One vertical tank, as permitted by the Greene County Building Department, to be located immediately adjacent the principal structure, not to exceed five feet in height from the adjacent grade and a maximum of 42 inches in diameter, may be permitted in the side yard in lieu of two 24 gallon tanks or one 48 gallon tank. Said tank must be completely screened from view from both the adjacent roadways and from the adjoining properties. Tanks in greater volume than those authorized in side yards, up to 1,000 gallons shall only be permitted in the rear yard of any residential or commercial district and shall be placed outside the required side and rear yard setbacks for accessory structures. Said tanks must be completely screened from view from both the adjacent roadway (in the case of corner lots) and from the adjoining property to the side and rear. Screening may be accomplished through the use of either opaque evergreen landscaping materials or fencing. No lot shall contain more than a combined 1,000 gallons of propane unless approved by the Board of Zoning Appeals.

(I) *Prohibited accessory structures.* Quonset huts, steel arch buildings, inflatable garages, and portable garages, temporary garages, portable carports, temporary carports, portable containers, converted storage or shipping containers, and semi-tractor trailers used for storage (with or without wheels) except as in • 158.112(D), are prohibited accessory structures in residential and commercial districts. All carports shall be prohibited in commercial districts.

(Ord. 09-21, passed 7-27-09; Am. Ord. 10-12, passed 9-13-10; Am. Ord. 12-02, passed 2-13-12)

• 158.105 ACCESSORY FENCES, WALLS AND PLANTINGS.

(A) *Fences and walls in side and rear yards.* Fences or walls constructed within a side or rear yard shall not be higher than six feet except as provided in this section. Tennis court fences are permitted to a maximum height of ten feet around the tennis court.

(B) *Structural supporting members.* All horizontal structural supporting members for fences shall be on the interior side of the fence, except shadowbox fencing where both sides shall be considered the interior side of the fence.

(C) *Height of hedges, fences and walls in required front yards.* No fence, wall or hedge shall rise over 42 inches in height within any required front yard **within residential and commercial districts**. In the case where the principal structure falls within the required front yard, fences up to six feet high shall be permitted in the required front yard as long as said fence is no closer to the public right-of-way than the principal structure.

(D) *Front yard setback and visibility requirements.* Fences, walls or hedges shall be prohibited:

- (1) Closer than 12 feet from the back of curb;
- (2) Closer than 25 feet from the center line of streets without curbs and gutters;
- (3) Within a public right-of-way; and/or
- (4) Which interfere with visibility from driveways or at intersections.

(E) *Decorative fences.* No permit shall be required for decorative fences. Decorative fences shall adhere to the height and location regulations for fences in the district in which they are located. See also • 158.003 Definitions - **FENCE, DECORATIVE.**

(F) *Security fences.* Security fences up to eight feet high are permitted in business and industrial districts.

(G) *Prohibited fences.* Chain link fencing, cyclone fencing or similar appurtenances shall be prohibited in the front yard. Electric fences, barbed wire fences, snow fences, corrugated metal fences, or other temporary fences shall not be permitted within residential districts. Except for the use as backing of a split-rail fence, wire mesh fencing, chicken wire fencing and welded wire fencing shall not be permitted within residential districts. No chain link (other than fences surrounding tennis courts) over 60" or split rail/Kentucky three board fence over 48" shall be permitted in the rear or side yard within residential and commercial districts.

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

• 158.106 REMOVAL OF SOIL, SAND, GRAVEL OR STONE FROM A LOT.

(A) *Temporary conditional use approval required.* The removal or extraction, storage and processing of soil, sand, gravel or stone from any lot shall only be conducted in accordance with the requirements of this section and is permitted only in those districts where such use is specifically listed as a conditional use. The temporary conditional use request may be denied or approved in appropriate cases after the filing of an application accompanied by an agreement secured by a bond, with the terms and amount of such agreement and bond acceptable to the city. Such agreement and bond shall assure that such removal will not result in poor drainage or leave the surface of the land, at the expiration of such permit, in an unstable condition, or unfit for the growing of turf or for other land uses permitted in the district in which such removal occurs.

(B) *Extraction and processing of sand, gravel, stone, or subsoils.* All mineral extraction and processing operations shall be in accordance with the following provisions:

(1) *Extraction less than six feet in depth adjacent to residential districts.* Extraction involving the removal of any material to a depth not exceeding six feet may be conducted up to 100 feet from a residential district, provided the operation is conducted over a temporary period not to exceed 12 months and operation of equipment is limited to the extraction process between the hours of 7:00 a.m. and 7:00 p.m. Temporary operational roads shall not be closer than 200 feet to a residential district.

(2) *Setback from existing residential districts or uses.* Extraction which exceeds six feet in depth and processing activities shall not be conducted closer than 500 feet from any residential district so zoned

<i>Type of Use</i>	<i>Parking Spaces Required</i>
Restaurant, bar, tavern or nightclub	One space for each 100 square feet of indoor floor area, plus one space for each employee on the largest shift, plus one space for each 200 square feet of outdoor dining area
Retail store solely for the sale of furniture, large appliances, or similar large items	One space for each 800 square feet of floor area, plus one space for each employee on the largest shift
Retail stores not specified elsewhere such as consumer electronic stores, book stores, video stores or other stores with similar small items	One space for each 250 square feet of gross floor area
Warehouse store, building material store, motorcycle sales, or similar store for large items	One space for each 800 square feet of floor display area, plus one space for each employee on the largest shift

(8) *Office.*

<i>Type of Use</i>	<i>Parking Spaces Required</i>
Medical, dental, or veterinary office or clinic	Three spaces for every examination or treatment room <u>for the first 20 rooms, one space for each examination or treatment room thereafter</u> , plus one space for each employee on the largest shift
Office/manufacturing combination	One space for each 300 square feet of office floor area, plus two spaces for each three employees on the largest shift within the manufacturing floor area portion
Professional and/or administrative office	One space for each 300 square feet of floor area, or one space for each employee, whichever is greater, plus one space for each vehicle used in the business and kept on the premises
Real estate, insurance, legal, finance or similar type of office	One space for each 200 square feet of floor area plus one space for each employee on the largest shift

(9) *Industrial.*

<i>Type of Use</i>	<i>Parking Spaces Required</i>
Manufacturing plant, warehouse, parcel delivery, freight terminal or similar use	Two spaces for each three employees on the largest shift for which the building is designed, plus one for each motor vehicle used in the business and maintained on the

● **158.118 USE, PARKING AND STORAGE OF VEHICLES AND RECREATIONAL VEHICLES.**

(A) *Agricultural uses.* This section does not apply to those parcels classified as "Agricultural" under "class" by the Greene County Auditor's Office.

(B) *Commercial, construction and industrial vehicles and equipment.*

(1) The overnight parking or storage outside a fully enclosed building of any commercial vehicle is prohibited within any residentially zoned district or on any lot used for residential purposes. Commercial vehicles include 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 commercial vehicles which are used or licensed as a recreational vehicle and any vehicles used as a platform to hoist cranes, compressors, tank(s), ladder trucks, or similar equipment or as a means of transporting or storing a commercial vehicle. The overnight parking or storage of heavy trucks, semi-trailers, truck tractors, tractor trailers or similar vehicles is prohibited within any commercially zoned district or on any lot used for commercial purposes, except in areas designated and provided for standing, loading and unloading services, as defined in ● **158.113 OFF-STREET LOADING REGULATIONS.**

(2) The overnight parking outside of a fully enclosed building of any commercial vehicle within any commercial district is prohibited, with the exception of vehicles owned by the business and vehicles making scheduled deliveries to the commercial property.

(C) *Recreational vehicles.* All recreational vehicles stored or parked within the city, other than those districts in which the commercial storage of recreational vehicles is permitted, shall be in accordance with the following regulations:

(1) No recreational vehicle shall be used for living or sleeping when parked or stored on a residential lot.

(2) No more than two recreational vehicles are permitted to be located on a lot outside of a fully enclosed building.

(3) Recreational vehicles parked or stored shall not be connected to any utilities other than for maintenance purposes.

(4) All recreational vehicles, visiting or otherwise, shall be wholly parked in a parking area or driveway of Portland cement concrete, bituminous/asphalt concrete or continuous brick paver surface and in a manner so as to not obstruct the view of traffic.

(D) *Yard parking.*

(1) No person shall park or leave unattended, or cause to leave parked or unattended, any vehicle wholly or partially within any yard of any residential or commercial property, including adjacent public right-of-way (up to the edge of the road pavement), unless such vehicle is wholly within a driveway or parking area.

(1) If required, as determined by the Planning and Zoning Department, the application shall contain an original and copies of all application materials, as required on the checklist on file at the time of application with the Planning and Zoning Department in a quantity specified by the Planning and Zoning Department.

(2) Each plan shall bear statements declaring that no part of the land involved in the application has been previously used to provide required yard space or lot area for another structure.

(3) Where complete and accurate information is not readily available from existing records, the Planning and Zoning Department may require the applicant to furnish a survey of the lot by a registered engineer or surveyor.

(4) Each property owner or authorized agent shall be required to attest to the correctness of the statements and data furnished with the application.

(5) A file of such applications and plans shall be kept in the office of the Planning and Zoning Department, as required by the Ohio Historical Society.

(6) Approval of zoning permit. Within 45 days of an application being officially filed, the Planning and Zoning Department shall either approve or disapprove the application in conformance with the provisions of this chapter. One copy of the plan shall be returned to the applicant, after the Planning and Zoning Department shall have marked such copy either as approved or disapproved and attested to same by a representative of the Planning and Zoning Department's signature on such copy. One copy of plans, similarly marked, shall be retained by the Planning and Zoning Department. ~~The Planning and Zoning Department shall issue a placard, to be posted in a conspicuous place on the property in question, attesting to the fact that the application is in conformance with the provisions of this chapter.~~

(7) Submission to the Engineering Department. Before any zoning permit is issued affecting any land located within a drainage easement, the Engineering Department shall be provided a copy of the zoning permit application for review. The zoning permit shall include any condition(s) specified by the Engineering Department as part of the approval and issuance of the zoning permit. In addition, any structure approved to be placed within a drainage easement shall be maintained at the discretion of the Engineering Department.

~~(87)~~ Submission to Director of the Ohio Department of Transportation.

(a) Before any zoning permit is issued affecting any land within 300 feet of the centerline of a proposed new highway or highway for which changes are proposed, as described in the certification to local officials by the Director of the Ohio Department of Transportation or affecting any land within a radius of 500 feet from the point of intersection of the centerline with any public road or highway, the Planning and Zoning Department shall give notice by certified mail to the Director of the Ohio Department of Transportation. The Planning and Zoning Department shall not issue a zoning permit for 120 days from the date the notice is received by the Ohio Director of Transportation. If the Director of the Ohio Department of Transportation notifies the Planning and Zoning Department that the Director has purchased or begun proceedings to appropriate the land, the Planning and Zoning Department shall refuse to issue the zoning permit.

(b) If however, the Director of the Ohio Department of Transportation notifies the Planning

May 26, 2020

	B-1	B-2	B-3	B-4	I-1	I-2	O-1	ORP-1	RP-1
Hobby shops		X	X	X					
Holistic health center		X	X	X					
Home improvement contractors (no outside storage except in I-1 and I-2)			C	C	X	X			
Home improvement and decorating stores and services		X	X	X					
Hookah bar or Shisha bar		C	X	X					
Hospitals			X	X			X	X	X
Hotels, motels, Apartment Hotel			C	X			X	X	X
Income tax preparation	X	X	X	X			X	X	X
<u>Indoor shooting range</u>		<u>C</u>	<u>C</u>	<u>C</u>					
Industrial research laboratories					X	X			
Janitorial services			X	X					
Junk yards and salvage yards					X	X			
Kennel or cattery				C	X	X			
Landscape contractor (no outside storage except in I-1 and I-2)				C	X	X			
Laundries, dry-cleaning plants and linen supply					X	X			
Laundry and dry-cleaning - self-service (coin-op)		C	X	X					
Lawn mower sales, service and repair			X	X					
Legitimate theater			X	X					
Locksmith		X	X	X					

May 26, 2020

	<i>B-1</i>	<i>B-2</i>	<i>B-3</i>	<i>B-4</i>	<i>I-1</i>	<i>I-2</i>	<i>O-1</i>	<i>ORP-1</i>	<i>RP-1</i>
Place of religious assembly	C	C	C	C	C	C	C	C	
Plumbing supply and contracting shops including storage yards					X	X			
Poultry killing and dressing						X			
Pre-schools	C	C	C	C	C	C	C		
Printing services		X	X	X	X	X			
Public buildings including community center buildings and libraries	X	X	X	X	X	X	X	X	
Public utility buildings, telephone exchanges, transformer stations and substations except garage and maintenance buildings	C	C	C	C	C	C	C		
Recreation facilities and customary accessory buildings and gymnasiums		C	X	X	X	X	X		
Recycling center - collection point only -no outside storage					X	X			
Research and engineering laboratories		C	X	X	X	X	X	X	X
Residential cleaning services		C	C	C					
Restaurants - drive-in			C	X					
Restaurants - inside and accessory drive thru service only		X	X	X			X	C	C
Retail, General		X	X	X					
School, Commercial truck driving:				C	C	C			
School, Trade		X	X	X			C	C	C
Self storage warehouses				C	X	X			
Shoe repair, shoe shining and hat cleaning services		X	X	X					
Shoe stores		X	X	X					
Skating rinks			X	X	X	X			

May 26, 2020

	B-1	B-2	B-3	B-4	I-1	I-2	O-1	ORP-1	RP-1
Skeet or trap shooting range (commercial) but not within 600 feet of any residential district					C	C			
<u>Private solar farms</u>				<u>C</u>	<u>C</u>	<u>C</u>			
Storage of building supplies and equipment, contractors equipment, food, fabrics, hardware and similar goods when located entirely within a building, provided such buildings shall not be used for wrecking or dismantling of motor vehicles.					X	X			
Tattoo and piercing parlor		<u>XE</u>	C	X					
Tattoo removal center		C	C	X					
Taxicab business				C	X	X			
Taxidermist services		X	X	X					
Teen clubs		C	X	X					
Television and radio broadcasting towers					C	C			
Television and radio stations			C	C	X	X			
Tin and sheet metal shops					X	X			
Tool and die shop, wrought iron shop, black-smith or machine shop					X	X			
Towing Service – outdoor storage in I-1 and I-2 only			C	C	C				
Trailer and manufactured home sales and storage					X	X			
Travel bureaus and ticket sales		X	X	X			X	X	X
Truck terminal					X	X			
Tutoring centers		X	X	X			X	C	C
Variety stores - retail		X	X	X					

RESOLUTION

CITY OF BEAVERCREEK
PLANNING COMMISSION
June 3, 2020

RE: PC 20-4 Beaver Creek
Zoning Code Updates

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 June 3, 2020 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" February 27, 2020.

SECTION II

1. The approved Zoning Code shall be amended as described in "Exhibit A" dated May 27, 2020.

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:

VOTING FOR ADOPTION:

VOTING AGAINST:

ABSENT:

PEL

**CITY OF BEAVERCREEK
CITY COUNCIL
AGENDA ITEM REPORT**

Meeting Date: July 27 2020	Reference Topic: Resolution 20-16 2021 County Tax Budget – Public Hearing Resolution 20-16
Agenda Reference No.: IX. A-D.	

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 Motion _____

RESPONSIBLE DEPARTMENT OR AGENCY		
<input checked="" 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 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:

This Resolution represents the 2021 modified Tax Budget that is forwarded to the Greene County Auditor. Preparation of the Tax Budget is required by Section 5705.28 of the Ohio Revised Code. However, this year, Greene County Budget Commission exercised their ability to waive the requirement that each entity had to provide a "Tax Budget". This authority is granted under ORC section 5705.281. In lieu of the previously more detailed tax budget, they authorized the County Auditor to request a new document "Estimated Available Resources for Calendar year 2021.

This document depicts the estimated beginning fund balance and sources of revenue, which includes the estimated property taxes, Local government fund allocation estimated by the County and all other revenue sources generated in each fund. This was completed and is attached. This new form is part of the new adoption of the revised Tax Budget.

Keep in mind that this is the start of the City's regular budget process.

This new budget process represents the first step in preparing the 2021 Appropriations Budget. Beginning in August & September, department reviews will be conducted to bring expenditure requests in line with available revenue. After these reviews, City Council reviews the proposed budgets and service levels in the November Budget Work Sessions. After these meetings, the City Manager will present a recommended budget to City Council for its final review and adoption during the December 2020 Council meeting. If you have any questions concerning this budget, please feel free to contact me.

STAFF RECOMMENDATION: Staff recommends adoption of Resolution 20-16.

**CITY OF BEAVERCREEK
RESOLUTION 20-16**

SPONSORED BY COUNCIL MEMBER _____ ON THE 27TH DAY OF JULY, 2020.

**A RESOLUTION APPROVING PROPOSED AMOUNTS FOR INCLUSION IN
THE 2021 TAX BUDGET FOR SUBMISSION TO THE GREENE COUNTY
AUDITOR.**

WHEREAS, the City is normally required to adopt a tax budget pursuant to section 5705.28 of the Ohio Revised Code. However the Greene County Budget Commission has the ability to waive this requirement per 5705.281 and has exercised this right, instead required a new Estimated Available Resources form be completed by the City and submitted to the County Auditor by July 31, and

WHEREAS, the City was required to advertise for a public hearing prior to the July 27, 2020 meeting and prior to filing the new form with the Greene County Auditor which was completed on July 10, 2020,

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF BEAVERCREEK, OHIO:

SECTION 1.

The proposed amounts shown in the "Estimated Available Resources for Calendar Year 2021" attached hereto as Exhibit A, are hereby approved to be utilized in preparing the official 2021 budget documents for submission to the Greene County Auditor.

SECTION 2.

The Financial Administrative Services Director is authorized to submit the official tax budget documents to the Greene County Auditor on or before July 31st.

SECTION 3.

That 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.

ADOPTED by the Beaver Creek City Council on this 27th day of July, 2020.

Bob Stone, Mayor

ATTEST:

Dianne Miscisin, Clerk of Council

Subdivision Name
Greene County, Ohio
Estimated Available Resources for Calendar Year 2021

Fund #	Fund Name	Estimated Unencumbered Cash Balance 1/1/2021	Estimated Property Tax Revenues 2021	Estimated Local Government Revenue 2021	Estimated All Other Sources 2021	Total Estimated Resources 2021
101	General	\$ 2,447,406	\$ 1,750,000	\$ 462,005	\$ 2,104,537	\$ 4,316,542
202	Police Levy	4,213,056	9,255,000		690,312	9,945,312
203	Street Levy	1,375,301	5,990,000		3,443,271	9,433,271
204	Street Maintenance	479,163			3,640,200	3,640,200
205	State Highway	158,684			237,622	237,622
223	Law Enforcement	167,868			8,000	8,000
224	Drug Enforcement	13,364			1,500	1,500
226	DUI Enforcement	22,002			2,000	2,000
227	Drug Enforcement	17,158			1,500	1,500
229	Federal Forfeiture	148,304			-	-
242	Crime Prevention	409			-	-
245	Grant (IDEP/STEP)	0			44,468	44,468
250	FEMA	-			-	-
260	Street Capital Improvement Levy	377,322	2,718,000		-	2,718,000
270	CARES	-			-	-
279	Parks Levy	640,935	1,655,000		972,013	2,627,013
300	Debt Service	29,309			522,841	522,841
310	Voted Debt Service	83,513			360,515	360,515
320	Greene Towne Center Assessments	-			1,082,196	1,082,196
408	Street Capital Improvement	60,917			369,000	369,000
449	Special Assessments	201,481			6,713	6,713
572	Golf	-			2,884,650	2,884,650
601	Greene TIF	1			350,000	350,000
620	Energy Special Improvement District	-			377,412	377,412
630	Beavercreek Energy ESID	-			247,628	247,628
712	Committed Park Monies	539,483			13,600	13,600
750	Miscellaneous Trust	82,788			24,200	24,200
751	RERT	26,159			84,282	84,282
771	Traffic Impact	463,873			78,800	78,800
816	Cemetery Bequest Fund	240,187			27,250	27,250
917	Cash Bond Fund	513,165			203,500	203,500
Totals		\$ 12,301,848	\$ 21,368,000	\$ 462,005	\$ 17,778,010	\$ 39,608,015

PEL

CITY OF BEAVERCREEK
CITY COUNCIL
AGENDA ITEM REPORT

Meeting Date: <u>July 27, 2020</u>	Reference Topic: Rock Drive Right-of-Way Vacation
Agenda Reference No.: <u>X. A.</u>	Ordinance No. 20-17 (Emergency)

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 checked="" type="checkbox"/> Engineering	<input type="checkbox"/> Planning & Zoning
<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 _____

BACKGROUND AND STAFF SUMMARY:

The existing Right-of-Way for Rock Drive is narrow and varies between 12 feet and 16 feet in width. The portion of Rock Drive that is proposed to be vacated previously provided access to several single family homes that have since been demolished in order to allow for the development of the new medical facility that is currently under construction along the west side of N. Fairfield Road. With the redevelopment of this property, the existing Rock Drive Right-of-Way that is proposed to be vacated is no longer necessary for transportation purposes. Additionally, as a part of this development new Right-of-Way will be dedicated to the City to allow for the reconstruction of a portion of Rock Drive on a new alignment that will meet current City standards.

City Council is asked to consider the approval of this Ordinance as an emergency. This action is at the request of the developer in order to allow for the timely recording of the record plan. The timely recording of the record plan will allow for the official dedication of the new Rock Drive Right-of-Way and will avoid delays in the construction of the new roadway.

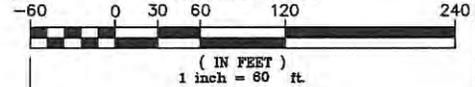
STAFF RECOMMENDATION:

It is therefore recommend that City Council approve the attached Ordinance vacating a portion of the Rock Drive Right-of-Way.

RECORD PLAN ROCK DRIVE

LOCATED IN
SECTION 32, TOWN 3, RANGE 7 M.R.s.
CITY OF BEAVERCREEK
GREENE COUNTY, OHIO
CONTAINING 9.4829 ACRES
MAY, 2020

GRAPHIC SCALE

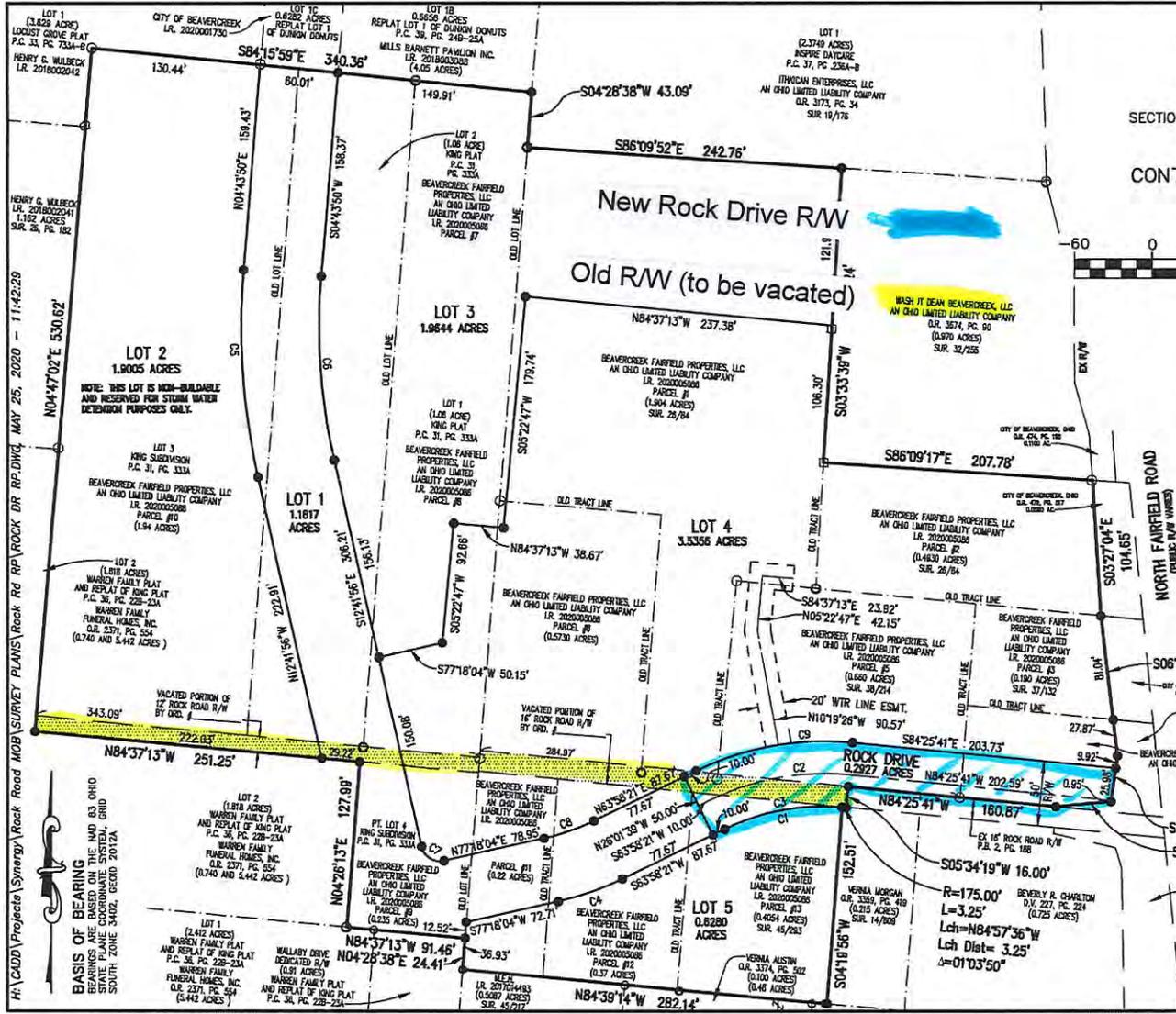


CURVE TABLE

CURVE	RADIUS	DELTA	LENGTH	CHD DIRECTION	CHD LENGTH
C1	175.00'	30°32'08"	93.27'	S79°14'25"W	92.17'
C2	200.00'	31°35'59"	110.30'	S79°46'20"W	108.91'
C3	175.00'	31°35'59"	98.52'	S79°46'20"W	95.30'
C4	225.00'	13°19'43"	52.34'	N70°38'12"E	52.22'
C5	530.00'	17°25'46"	161.23'	S33°59'03"E	160.60'
C6	470.00'	17°25'46"	142.97'	S33°59'03"E	142.42'
C7	14.50'	90°00'00"	22.78'	S57°41'56"E	20.51'
C8	175.00'	13°19'43"	40.71'	N70°38'12"E	40.62'
C9	225.00'	31°35'59"	124.09'	S79°46'20"W	122.52'

SURVEY SYMBOLS LEGEND:

- EX 5/8" IRON PIN FOUND
- EX 1" IRON PIPE FOUND
- ◻ EX CONCRETE MONUMENT FOUND
- × EX PK NAIL FOUND
- ⊠ EX RAILROAD SPIKE FOUND
- IRON PIN TO BE SET (5/8" DIA. 30" LONG)
- ⊙ MONUMENT TO BE SET
- × PK NAIL TO BE SET
- ▲ RR SPIKE TO BE SET
- ▲ ALL MONUMENTS TO BE SET AT COMPLETION OF CONSTRUCTION



A: (CAADD) Projects Synergy | Rock Road MOB Survey Plans | Rock Rd RP | ROCK DR RP-DWG. MAY 25, 2020 - 11:42:29

BASIS OF BEARING
BEARINGS ARE BASED ON THE NAD 83 OHIO
ADJUSTED PLANE TABLE GRID
SOUTH ZONE SPZ2, GRID 2012A

NOTE: THIS LOT IS NON-BUILDABLE
AND RESERVED FOR STORM WATER
RETENTION PURPOSES ONLY.

**CITY OF BEAVERCREEK, OHIO
ORDINANCE NO. 20-17**

SPONSORED BY COUNCIL MEMBER _____ ON THE 27TH DAY OF JULY, 2020.

AN ORDINANCE TO VACATE A PORTION OF PUBLIC RIGHT-OF-WAY OF ROCK DRIVE UPON APPLICATION OF THE OWNERS OF PROPERTY ABUTTING THE SAME RIGHT-OF-WAY AND DECLARING AN EMERGENCY.

WHEREAS, Beaver creek Fairfield Property, LLC, One Children's Plaza, Dayton, OH 45404 and Warren Family Funeral Homes, Inc., 520 SW 27th St., Topeka, KS 66611 (the 'Applicants') have made application for the vacation of a portion of public right-of-way in the City of Beaver creek; and

WHEREAS, the public right-of-way, for which application to vacate has been made, consisting of 0.1992 acres of land, more or less, and is a portion of the right-of-way of Rock Drive (the 'certain right-of-way'), as shown in exhibit A; and

WHEREAS, pursuant to Section 723.05 of the Ohio Revised Code, this Council may, upon good cause, vacate or narrow a street or alley, or any part thereof, with or without petition, and

WHEREAS, pursuant to Section 723.06 of the Ohio Revised Code, notice of publication of the intention to vacate or narrow a street or alley is not required when written consent of such vacation is filed with this Council by the owners of property abutting the part of the street or alley proposed to be vacated.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BEAVERCREEK, OHIO HEREBY ORDAINS THAT:

SECTION I.

The Applicants have filed a request to vacate certain right-of-way.

SECTION II.

The herein applicants are the owners of the properties abutting the certain right-of-way for which application has been made to be vacated, and furthermore, the Applicants have filed written consent to such vacation with this Council, a copy of which is attached as Exhibit 'B' and incorporated herein.

SECTION III.

There is good cause for such vacation of the certain right-of-way for which application has been made, and furthermore, that such vacation of right-of-way will not be detrimental to the general interests and should be approved.

SECTION IV.

Upon the Applicants' preparation and submission to the City Planning Department of the necessary record plan showing the portion of the street to be vacated, the Planning Director and the Chairman of the Planning Commission are hereby authorized and instructed to approve such record plan and to endorse upon such plat the action of this Council in vacating the certain right-of-way; and the Planning Director shall cause the said approved and endorsed plat to be recorded in the office of the Recorder of Greene County, Ohio.

SECTION V.

Upon the approval by the Planning Director and the Chairman of the Planning Commission of the record plat pursuant to Section IV of the Ordinance, the Clerk of Council is hereby instructed to forward a copy of this Ordinance to the Auditor of Greene County, Ohio.

SECTION VI.

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 formal action were in meetings open to the public, in compliance with all legal requirements, including, but not limited, Section 121.22 of the Ohio Revised Code.

SECTION VII.

This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, and welfare of the City; and further for the reason that the immediate reconstruction and realignment of Rock Drive are necessary to improve the traffic safety and to provide access to the Beaver Creek Fairfield, LLC property; therefore, this Ordinance shall be in full force and effective from and immediately after its adoption.

ADOPTED by the Council of the City of Beavercreek, Ohio this _____ day
of _____, 2020.

Bob Stone, Mayor

ATTEST:

Dianne Miscisin, Clerk of Council

TO THE CLERK:

If this ordinance is adopted, please post it in full in the office of the City within ten days after its adoption and within the same ten days publish the summary of the ordinance one time in a newspaper or other printed publication regularly distributed and of general circulation in the City together with a notice of adoption of the ordinance.

SUMMARY

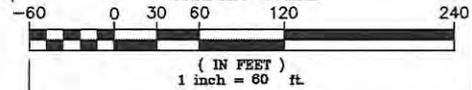
This Ordinance vacates a portion of the public right-of-way of Rock Drive and declares an emergency.

EXHIBIT A

RECORD PLAN ROCK DRIVE

LOCATED IN
SECTION 32, TOWN 3, RANGE 7 M.R.
CITY OF BEAVERCREEK
GREENE COUNTY, OHIO
MAY, 2020

GRAPHIC SCALE

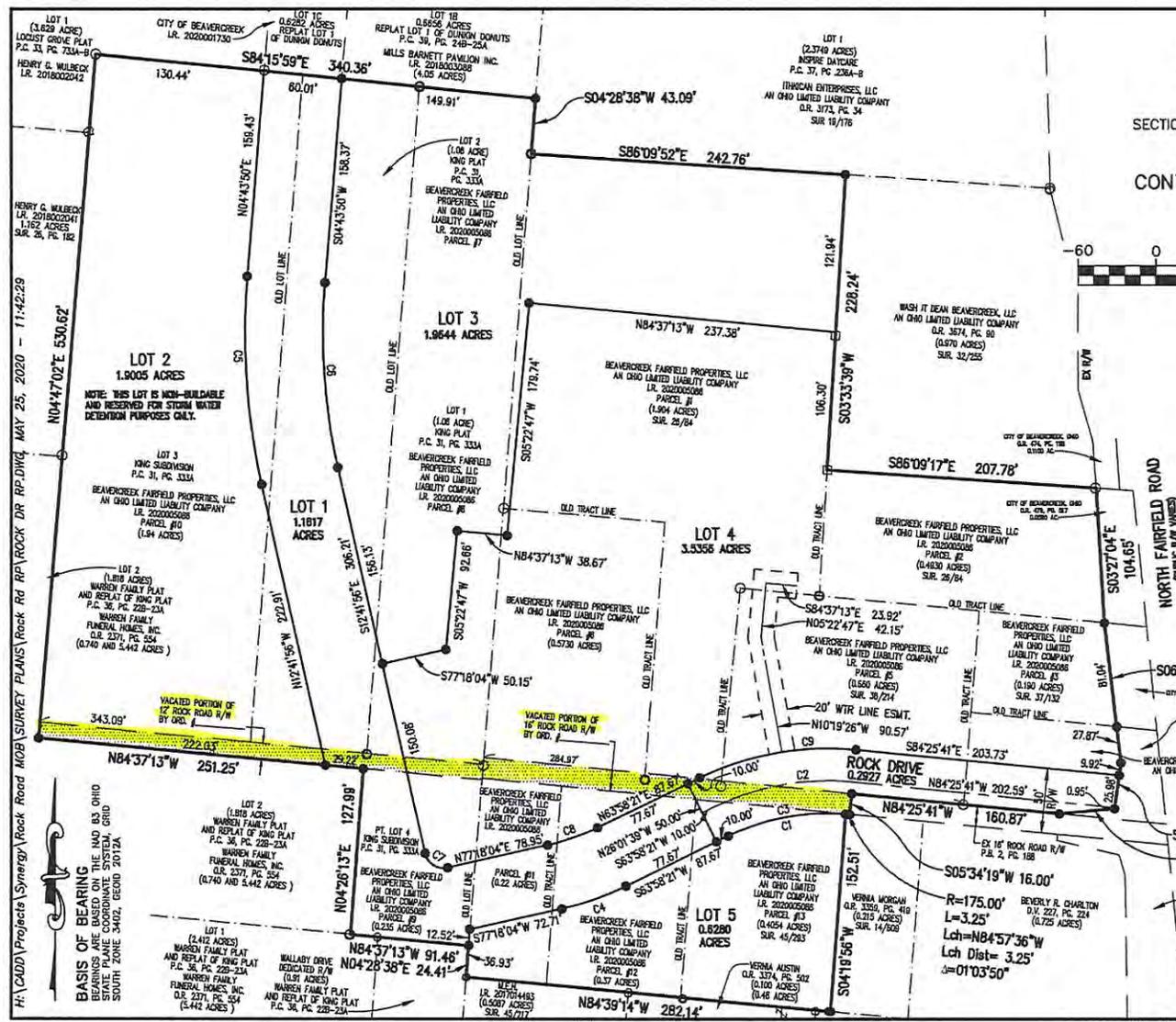


CURVE TABLE

CURVE	RADIUS	DELTA	LENGTH	CHD DIRECTION	CHD LENGTH
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C3	175.00'	31°35'59"	98.52'	S79°46'20"W	95.30'
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C6	470.00'	17°25'46"	142.87'	S3°59'03"E	142.42'
C7	14.50'	90°00'00"	22.78'	S57°41'56"E	20.51'
C8	175.00'	13°19'43"	40.71'	N70°38'12"E	40.62'
C9	225.00'	31°35'59"	124.09'	S79°46'20"W	122.52'

SURVEY SYMBOLS LEGEND:

- EX 5/8" IRON PIN FOUND
- EX 1" IRON PIPE FOUND
- ◇ EX CONCRETE MONUMENT FOUND
- × EX PK NAIL FOUND
- ⊠ EX RAILROAD SPIKE FOUND
- IRON PIN TO BE SET (5/8" DIA. 30" LONG)
- ⊙ MONUMENT TO BE SET
- × PK NAIL TO BE SET
- ▲ RR SPIKE TO BE SET
- ▲ ALL MONUMENTS TO BE SET AT COMPLETION OF CONSTRUCTION



H:\CADD\Projects\Symery\Rock Road MOB SURVEY PLANS\Rock Rd RP\Rock DR RP.DWG, MAY 25, 2020 - 11:42:29

BASIS OF BEARING
BEARINGS ARE BASED ON THE NAD 83 OHIO STATE PLANE COORDINATE SYSTEM, GRID SOUTH ZONE 5402, GEOID 2012A

NOTE: THIS LOT IS NON-BUILDABLE AND RESERVED FOR STORM WATER DETENTION PURPOSES ONLY.

VACATED PORTION OF 12' ROCK ROAD R/W BY ORD. #

VACATED PORTION OF 15' ROCK ROAD R/W BY ORD. #

VACATED PORTION OF 15' ROCK ROAD R/W BY ORD. #

EXHIBIT B



Beavercreek
Department of Public Works
Engineering Division

PETITION FOR THE CITY OF BEAVERCREEK
TO VACATE A STREET OR ALLEY

To the Council of the City of Beavercreek, State of Ohio:

We, the undersigned owner(s) of lots in the City of Beavercreek, abutting on or in the immediate vicinity of Rock Drive from west property line of 3325 Rock Dr. to western terminus of Rock Dr. hereby respectfully petition your honorable body that Rock Drive may be vacated, between the points named for the reason that it is no longer of use to the public and its vacation will not be detrimental to the general interest.

If the vacation is approved by City Council, the persons who sign this petition must submit and record a plat making the vacated street a part of abutting lots, half and half to the lots on each side of the former street.

SIGNATURE AND PRINTED NAME	MAILING ADDRESS/ PHONE NO.	PLAT/LOT/ PARCEL I.D.
1. <u>Charles Y. Kidwell</u>	<u>One Childrens Plaza</u>	<u>B420005000500</u>
<u>Charles Y. Kidwell</u>	<u>Dayton, OH 45404</u>	<u>13600, 13500, 13400,</u>
<u>Member Representative</u>	<u>937-641-3475</u>	<u>13300, 12500, 13900,</u>
<u>Beavercreek Fairfield Property, LLC</u>		<u>14000 and 14100</u>
2. <u>J. Perry Hasselbeck</u>	<u>520 SW 27th ST.</u>	
<u>J. PERRY HASSELBECK</u>	<u>TOPEKA, KS</u>	
<u>EXECUTIVE VP & C.O.O.</u>	<u>785-233-6655 x 262</u>	
<u>WARRNER FAMILY FUNERAL HOMES, INC.</u>		

Ohio Revised Code 723.04. See also 723.05 and 711.39.

**CITY OF BEAVERCREEK
CITY COUNCIL
AGENDA ITEM REPORT**

AK

Meeting Date: July 27, 2020 Agenda Reference No.: X. B.	Reference Topic: A RESOLUTION TO PROCEED WITH PLACING A ONE PERCENT (1%) MUNICIPAL INCOME TAX ON THE NOVEMBER 3, 2020 BALLOT AND TO CERTIFY THE SAME TO THE GREENE COUNTY BOARD OF ELECTIONS. Resolution 20-17
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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 Motion _____

RESPONSIBLE DEPARTMENT OR AGENCY		
<input type="checkbox"/> Finance	<input checked="" type="checkbox"/> City Council	<input type="checkbox"/> Human Resources
<input type="checkbox"/> Parks, Recreation & Culture	<input 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:

With the passage of City of Beavercreek Income Tax Ordinance 20-09, establishing the City of Beavercreek Income tax code, the next phase is to place the income tax on the ballot for resident's consideration. In order to meet the Board of Elections filing deadline for the November 3, 2020 General Election ballot, a resolution must be passed at the July 27, 2020 Council meeting. Therefore, the attached Resolution has been created to meet the statutory requirements to place the income tax issue on the November 3, 2020 ballot should Council approve the Resolution.

STAFF RECOMMENDATION: Staff recommends adoption of Resolution 20-17

**CITY OF BEVERCREEK
RESOLUTION NO. 20-17**

SPONSORED BY COUNCIL MEMBER _____ ON THE 27TH DAY OF JULY, 2020.

**A RESOLUTION TO PROCEED WITH PLACING A ONE PERCENT (1%)
MUNICIPAL INCOME TAX ON THE NOVEMBER 3, 2020 BALLOT AND
TO CERTIFY THE SAME TO THE GREENE COUNTY BOARD OF
ELECTIONS**

WHEREAS, Beaver Creek City Council has determined that it is necessary to increase annual revenues in the City for the purpose of providing additional funds for general municipal operations, maintenance, equipment, municipal services and facilities, infrastructure, and capital improvements in the City of Beaver Creek; and

WHEREAS, to provide sufficient funding for the purposes described above, Council for the City of Beaver Creek has determined that it is necessary to impose a one percent (1%) municipal income tax in the City of Beaver Creek; and

WHEREAS, Section 10.05 of the Charter of the City of Beaver Creek, Ohio, provides that City Council must have the approval of a majority of the City's electors voting on the imposition of an income tax levy before an income tax can be imposed in the City of Beaver Creek; and

WHEREAS, City Council verily believes that the imposition of a one percent (1%) income tax will help protect and promote the public health, safety, and welfare of citizens in the Beaver Creek community by providing sufficient funds for necessary municipal operations and services; and

WHEREAS, the imposition of a one percent (1%) income tax in the City of Beaver Creek would permit the City to allow the voted 3.4 mill street levy to expire, thus reducing the City's reliance on property tax levies; and

WHEREAS, City Council has adopted an Ordinance authorizing the one percent (1%) income tax described herein; and

WHEREAS, after complying with all of the statutory required notice and hearing requirements, the City of Beaver Creek has determined it necessary to place the City of Beaver Creek's Income Tax Ordinance on the November 3, 2020 General Election Ballot; and

WHEREAS, pursuant to R.C. 718.04(C)(2), City Council intends to hereby direct the Greene County Board of Elections to conduct the election and place the City of Beaver Creek's Income Tax Ordinance on the ballot for the November 3, 2020 General Election.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF BEAVERCREEK, STATE OF OHIO:

SECTION I: Council for the City of Beavercreek hereby authorizes the submission to the electors of the City of Beavercreek, Ohio, at the general election to be held on November 3, 2020, during the times and places established by state law or the Board of Elections of Greene County, Ohio, the question of approving the passage of an Ordinance, a copy of which is attached hereto as Exhibit A, to adopt Chapter 39 of the City of Beavercreek Codified Ordinances and thereby impose an income tax at the rate one percent (1%) for the period beginning January 1, 2022, for the purpose of providing revenue for general municipal operations, maintenance, equipment, municipal services and facilities, infrastructure, and capital improvements in the City of Beavercreek. The Greene County Board of Elections is hereby directed, in accordance with R.C. 718.04(C)(2), to conduct the election.

SECTION II: The form of the ballot to be used at said election shall be substantially as follows:

PROPOSED INCOME TAX AT THE RATE OF ONE PERCENT

CITY OF BEAVERCREEK, OHIO

A majority affirmative vote is necessary for passage

Shall the Ordinance providing for the imposition of a one percent (1%) income tax in the City of Beavercreek, Ohio, beginning January 1, 2022, to be levied on income as defined by Ordinance of the City of Beavercreek, Ohio, for the purpose of providing revenue for general municipal operations, maintenance, equipment, municipal services and facilities, infrastructure, and capital improvements in the City of Beavercreek, Ohio, the passage of which would permit the City to allow the 3.4 mill street levy currently in effect to expire on December 31, 2021 and not be renewed, be passed?

	FOR THE INCOME TAX
	AGAINST THE INCOME TAX

SECTION III: The Clerk of Council is hereby authorized and directed to forward a certified copy of this Resolution, together with a certified copy of the Ordinance attached hereto, to the Board of Elections of Greene County, Ohio, as soon as possible but not later than 4:00 p.m. on August 5, 2020.

SECTION IV:

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 V:

This Resolution shall take effect and be in full force from and after its passage.

PASSED this 27th day of July, 2020.

Bob Stone, Mayor

ATTEST:

Dianne Miscisin, Clerk of Council

PREPARED BY: CITY ATTORNEY

SUMMARY

THIS RESOLUTION BY BEAVERCREEK CITY COUNCIL IS TO PLACE A ONE PERCENT (1%) MUNICIPAL INCOME TAX ON THE NOVEMBER 3, 2020 GENERAL ELECTION BALLOT AND TO CERTIFY THE SAME TO THE GREENE COUNTY BOARD OF ELECTIONS

CITY OF BEAVERCREEK, OHIO

ORDINANCE NO. 20-09

SPONSORED BY COUNCIL MEMBER CURRAN ON THE 26TH DAY OF MAY, 2020.

AN ORDINANCE BY BEAVERCREEK CITY COUNCIL ENACTING A NEW CHAPTER 39 "INCOME TAX" TO THE CODIFIED ORDINANCES OF 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; and

WHEREAS, pursuant to the home rule authority granted by Article XVIII, Section 3 of the Ohio Constitution, the citizens of the City of Beavercreek, Ohio, have adopted a Charter and Codified Ordinances to exercise the powers of local self-government and to enforce local police power regulations; and

WHEREAS, Section 10.05 of the Charter of the City of Beavercreek, Ohio, provides that City Council shall have no power to adopt and levy a City income tax without a majority vote of the City's electors voting on such levy; and

WHEREAS, in accordance with Ohio Revised Code Chapter 718, the City of Beavercreek wishes to adopt an income tax in order to provide revenue for purposes of general municipal operations, maintenance, equipment, municipal services and facilities, infrastructure, and capital improvements in the City of Beavercreek; and

WHEREAS, the imposition of an income tax is in the best interest of the citizens of the City of Beavercreek as the revenue will help provide for proper street maintenance and repairs in the City; it will provide additional revenue for all other authorized purposes specified in the Ohio Revised Code; it will provide funding that will help protect and promote the public health, safety and welfare of citizens in the Beavercreek community; and it will eliminate or reduce the need for future City property tax levies for police, parks and streets; and

WHEREAS, the approval of a one percent income tax by a majority of the electors voting on the levy would permit the City to allow the voted 3.4 mill street levy to expire; and

WHEREAS, the one percent municipal income tax described herein will be submitted to the electors of the City of Beavercreek, Ohio for approval or rejection in accordance with Section 10.05 of the Charter of the City of Beavercreek, Ohio.

NOW, THEREFORE, THE CITY OF BEAVERCREEK HEREBY ORDAINS:

SECTION I.

City Council hereby finds that imposition of a one percent income tax, which will be effective January 1, 2022, will reduce the City's reliance on property tax levies and will allow for the existing voted 3.4 mill street levy to expire on December 31, 2021.

SECTION II.

City Council hereby finds that the imposition of an income tax as prescribed by Ohio Revised Code Chapter 718 is in the best interest of the citizens of the City of Beavercreek as the revenue generated by this tax will help provide funds for general municipal operations, maintenance, equipment, municipal services and facilities, infrastructure, and capital improvements in the City of Beavercreek.

SECTION III.

Chapter 39 ("Income Tax") of the Codified Ordinances of the City of Beavercreek, Ohio, a copy of which is attached hereto and incorporated herein as Exhibit A, is hereby enacted as prescribed by Ohio Revised Code Chapter 718, to impose a one percent income tax in the City of Beavercreek, Ohio, and to establish a one hundred percent credit (up to Beavercreek's income tax rate) for income taxes paid by Beavercreek residents to other municipalities.

SECTION IV.

City Council hereby directs that the question of whether an income tax of one percent shall be imposed in the City of Beavercreek shall be submitted to the City's electors for approval or rejection and placed on the election ballot in accordance with Ohio law.

SECTION V.

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 VI.

The Clerk of Council is hereby directed to take any administrative and/or clerical action that may be required to ensure that a certified copy of this Ordinance is properly recorded with the State of Ohio.

The Clerk of Council is further directed to file a certified copy of this Ordinance with Exhibit A attached, together with a Resolution specifying the date of the election to be held, directing the Board of Elections to conduct the election.

SECTION VII.

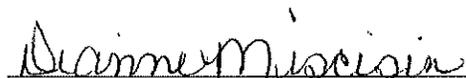
This Ordinance shall take effect at the earliest time permitted by law.

PASSED this 22nd day of June, 2020.



Bob Stone, Mayor

ATTEST:



Dianne Miscisin, Clerk of Council

SUMMARY

THIS ORDINANCE IMPOSES A ONE PERCENT MUNICIPAL INCOME TAX IN ACCORDANCE WITH OHIO REVISED CODE CHAPTER 718 AND AMENDS THE CODIFIED ORDINANCES OF THE CITY OF BEAVERCREEK, OHIO BY ADDING NEW CHAPTER 39 "INCOME TAX"

CHAPTER 39
City of Beavercreek Income Tax
Effective January 1, 2022
For taxable years beginning with taxable year 2022

39.01	AUTHORITY TO LEVY TAX; PURPOSES OF TAX; RATE
39.011	AUTHORITY TO LEVY TAX
39.012	PURPOSES OF TAX; RATE
39.013	ALLOCATION OF FUNDS
39.02	EFFECTIVE DATE
39.03	DEFINITIONS
39.04	INCOME SUBJECT TO TAX FOR INDIVIDUALS
39.041	DETERMINING MUNICIPAL TAXABLE INCOME FOR INDIVIDUALS
39.042	DOMICILE
39.043	EXEMPTION FOR MEMBER OR EMPLOYEE OF GENERAL ASSEMBLY AND CERTAIN JUDGES
39.05	COLLECTION AT SOURCE
39.051	COLLECTION AT SOURCE; WITHHOLDING FROM WAGES
39.052	COLLECTION AT SOURCE; OCCASIONAL ENTRANT
39.053	COLLECTION AT SOURCE; CASINO AND VLT
39.06	INCOME SUBJECT TO NET PROFIT TAX
39.061	DETERMINING MUNICIPAL TAXABLE INCOME FOR TAXPAYERS WHO ARE NOT INDIVIDUALS
39.062	NET PROFIT; INCOME SUBJECT TO NET PROFIT TAX; ALTERNATIVE APPORTIONMENT
39.063	CONSOLIDATED FEDERAL INCOME TAX RETURN
39.064	TAX CREDIT FOR BUSINESSES THAT FOSTER NEW JOBS IN OHIO
39.065	TAX CREDITS TO FOSTER JOB RETENTION
39.07	DECLARATION OF ESTIMATED TAX
39.08	CREDIT FOR TAX PAID
39.081	CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY
39.082	REFUNDABLE CREDIT FOR QUALIFYING LOSS
39.083	CREDIT FOR PERSON WORKING IN JOINT ECONOMIC DEVELOPMENT DISTRICT OR ZONE

	39.084	CREDIT FOR TAX BEYOND STATUTE FOR OBTAINING REFUND
39.09		ANNUAL RETURN
	39.091	RETURN AND PAYMENT OF TAX
	39.092	RETURN AND PAYMENT OF TAX; INDIVIDUALS SERVING IN COMBAT ZONE
	39.093	USE OF OHIO BUSINESS GATEWAY; TYPES OF FILINGS AUTHORIZED
	39.094	EXTENSION OF TIME TO FILE
	39.095	AMENDED RETURNS
	39.096	REFUNDS
39.10		PENALTY, INTEREST, FEES AND CHARGES
39.11		AUDIT
39.12		ROUNDING
39.13		AUTHORITY AND POWERS OF THE TAX ADMINISTRATOR
	39.131	AUTHORITY OF TAX ADMINISTRATOR; ADMINISTRATIVE POWERS OF THE TAX ADMINISTRATOR
	39.132	AUTHORITY OF TAX ADMINISTRATOR; COMPROMISE OF CLAIM AND PAYMENT OVER TIME
	39.133	AUTHORITY OF TAX ADMINISTRATOR; RIGHT TO EXAMINE
	39.134	AUTHORITY OF TAX ADMINISTRATOR; REQUIRING IDENTIFYING INFORMATION
39.14		CONFIDENTIALITY
39.15		FRAUD
39.16		OPINION OF THE TAX ADMINISTRATOR
39.17		ASSESSMENT; APPEAL BASED ON PRESUMPTION OF DELIVERY
39.18		LOCAL BOARD OF TAX REVIEW; APPEAL TO LOCAL BOARD OF TAX REVIEW
39.19		ACTIONS TO RECOVER; STATUTE OF LIMITATIONS
39.20		ADOPTION OF RULES
39.21		INFORMATION BY LANDLORDS
39.22		FILING NET PROFIT TAXES; ELECTION TO BE SUBJECT TO PROVISIONS OF CHAPTER
39.23		DEFINITIONS
39.24		APPLICABILITY; TAXABLE SITUS; APPORTIONMENT
39.25		INFORMATION PROVIDED TO TAX ADMINISTRATORS; CONFIDENTIALITY

39.26	FILING OF ANNUAL RETURN; REMITTANCE; DISPOSITION OF FUNDS
39.27	ELECTRONIC FILING
39.28	CONSOLIDATED RETURNS
39.29	FAILURE TO PAY TAX
39.30	DECLARATION OF ESTIMATED TAXES
39.31	ADDITIONAL PENALTIES
39.32	ASSESSMENTS AGAINST TAXPAYER
39.33	REFUND APPLICATIONS
39.34	AMENDED RETURNS
39.35	EXAMINATION OF RECORDS AND OTHER DOCUMENTS AND PERSONS
39.36	CREDITS
39.37	RECKLESS VIOLATIONS; PENALTIES
39.97	COLLECTION AFTER TERMINATION OF CHAPTER
39.98	SAVINGS CLAUSE
39.99	VIOLATIONS - PENALTY

39.01 AUTHORITY TO LEVY TAX; PURPOSES OF TAX; RATE.

39.011 AUTHORITY TO LEVY TAX .

(A) The tax on income and the withholding tax established by this chapter are authorized by Article XVIII, Section 3 of the Ohio Constitution. The tax on income and the withholding tax established by this chapter are deemed to be levied in accordance with, and to be consistent with, the provisions and limitations of R.C. Chapter 718. This chapter is deemed to incorporate the provisions of R.C. Chapter 718.

(B) The tax is an annual tax levied on the income of every person, as defined in this chapter, residing in or earning or receiving income in the City of Beavercreek, and shall be measured by municipal taxable income, as defined in this chapter. The City of Beavercreek shall tax income at a uniform rate.

39.012 PURPOSES OF TAX; RATE.

(A) The purpose of the tax is to provide funds for purposes of general municipal operations, maintenance, equipment, municipal services and facilities, infrastructure, and capital improvements in the City of Beavercreek.

(B) Subject to the provisions of division (A) of this section, an annual tax shall be levied at the rate of one percent per annum.

(C) The income tax will diversify the City of Beavercreek's revenue stream and reduce the City of Beavercreek's dependence on property tax levies. Upon approval of the one percent per annum income tax by a majority of the electors voting on the tax, the voted 3.4 mill street levy currently in effect, which levy is set to expire on December 31, 2021, shall not be renewed.

39.013 ALLOCATION OF FUNDS.

The funds collected under the provisions of this chapter shall be deposited into the General Fund and shall be appropriated and disbursed through annual appropriations, for the purposes defined in section 39.012 of this chapter, in accordance with Section 10.10 ("Annual Appropriation Ordinance") of the Charter of the City of Beavercreek, Ohio, as well as supplemental appropriations ordinances adopted by City Council.

Upon approval of this one percent income tax by a majority of the voting electors, the voted 3.4 mill street levy will expire on December 31, 2021 and not be renewed. The revenue currently generated by this levy will be appropriated annually to replace the funds on the expiring levy.

The City shall continue and expand the open budgetary process allowing public input through various steps of the annual budget and appropriations process. This includes the ability for residents to provide input during the tax budget, budget work sessions, and public hearing for the annual appropriations ordinance.

39.02 EFFECTIVE DATE.

The effective date of the provisions of this chapter shall be January 1, 2022 and shall apply to municipal taxable years beginning on or after January 1, 2022.

39.03 DEFINITIONS.

Any term used in this chapter that is not otherwise defined in this chapter has the same meaning as when used in a comparable context in laws of the United States relating to federal income taxation or in Title LVII of the Ohio Revised Code, unless a different meaning is clearly required. If a term used in this chapter that is not otherwise defined in this chapter is used in a comparable context in both the laws of the United States relating to federal income tax and in Title LVII of the Ohio Revised Code and the use is not consistent, then the use of the term in the laws of the United States relating to federal income tax shall control over the use of the term in Title LVII of the Ohio Revised Code.

For purposes of this section, the singular shall include the plural, and the masculine shall include the feminine and the gender neutral.

As used in this chapter:

(1) **"ADJUSTED FEDERAL TAXABLE INCOME,"** for a person required to file as a C corporation, or for a person that has elected to be taxed as a C corporation under division 23(E) of this section, means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:

(A) Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.

(B) Add an amount equal to five percent of intangible income deducted under division (1)(A) of this section but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in section 1221 of the Internal Revenue Code.

(C) Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code.

(D) (i) Except as provided in division (1)(D)(ii) of this section, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;

(ii) Division (1)(D)(i) of this section does not apply to the extent the income or gain is income or gain described in section 1245 or 1250 of the Internal Revenue Code.

(E) Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income.

(F) In the case of a real estate investment trust or regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income.

(G) Deduct, to the extent not otherwise deducted or excluded in computing federal taxable income, any income derived from a transfer agreement or from the enterprise transferred under that agreement under R.C. 4313.02.

(H) Deduct exempt income to the extent not otherwise deducted or excluded in computing adjusted federal taxable income.

(I) Deduct any net profit of a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that net profit in the group's federal taxable income in accordance with division (E)(3)(b) of section 39.063 of this chapter.

(J) Add any loss incurred by a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that loss in the group's federal taxable income in accordance with division (E)(3)(b) of section 39.063 of this chapter.

If the taxpayer is not a C corporation, is not a publicly traded partnership that has made the election described in division (23)(E) of this section, and is not an individual, the taxpayer shall compute adjusted federal taxable income under this section as if the taxpayer were a C corporation, except guaranteed payments and other similar amounts paid or accrued to a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deductible expense unless such payments are in consideration for the use of capital and treated as payment of interest under section 469 of the Internal Revenue Code or United States Department of Treasury regulations. Amounts paid or accrued to a qualified self-employed retirement plan with respect to a partner, former partner, shareholder, former shareholder, member, or former member of the taxpayer, amounts paid or accrued to or for health insurance for a partner, former partner, shareholder, former shareholder, member, or former member, and amounts paid or accrued to or for life insurance for a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deduction.

Nothing in division (I) of this section shall be construed as allowing the taxpayer to add or deduct any amount more than once or shall be construed as allowing any taxpayer to deduct any amount paid to or accrued for purposes of federal self-employment tax.

(2) (A) **"ASSESSMENT"** means any of the following:

- (i) A written finding by the Tax Administrator that a person has underpaid municipal income tax, or owes penalty and interest, or any combination of tax, penalty, or interest, to the municipal corporation;
- (ii) A full or partial denial of a refund request issued under section 39.096 (B)(2) of this chapter;
- (iii) A Tax Administrator's denial of a taxpayer's request for use of an alternative apportionment method, issued under section 39.062(B)(2) of this chapter; or
- (iv) A Tax Administrator's requirement for a taxpayer to use an alternative apportionment method, issued under section 39.062(B)(3) of this chapter.
- (v) For purposes of division (2)(A)(i), (ii), (iii) and (iv) of this section, an assessment shall commence the person's time limitation for making an appeal to the Local Board of Tax Review pursuant to section 39.18 of this chapter, and shall have **"ASSESSMENT"** written in all capital letters at the top of such finding.

(B) **"ASSESSMENT"** does not include notice(s) denying a request for refund issued under section 39.096 (B)(3) of this chapter, a billing statement notifying a taxpayer of current or past-due balances owed to the municipal corporation, a Tax Administrator's request for additional information, a notification to the taxpayer of mathematical errors, or a Tax Administrator's other written correspondence to a person or taxpayer that does not meet the criteria prescribed by division (2)(A) of this section.

(3) **"AUDIT"** means the examination of a person or the inspection of the books, records, memoranda, or accounts of a person, ordered to appear before the Tax Administrator, for the purpose of determining liability for a municipal income tax.

(4) **"BOARD OF REVIEW"** has same meaning as **"LOCAL BOARD OF TAX REVIEW"**.

(5) **"CALENDAR QUARTER"** means the three-month period ending on the last day of March, June, September, or December.

(6) **"CASINO OPERATOR"** and **"CASINO FACILITY"** have the same meanings as in R.C. 3772.01.

(7) **"CERTIFIED MAIL," "EXPRESS MAIL," "UNITED STATES MAIL," "POSTAL SERVICE"** and similar terms include any delivery service authorized pursuant to R.C. 5703.056.

(8) **"COMPENSATION"** means any form of remuneration paid to an employee for personal services.

(9) "**DISREGARDED ENTITY**" means a single member limited liability company, a qualifying subchapter S subsidiary, or another entity if the company, subsidiary, or entity is a disregarded entity for federal income tax purposes.

(10) "**DOMICILE**" means the true, fixed and permanent home of the taxpayer to which, whenever absent, the taxpayer intends to return.

(11) "**EXEMPT INCOME**" means all of the following:

- (A) The military pay or allowances of members of the armed forces of the United States or members of their reserve components, including the national guard of any state.
- (B) Intangible income, as described paragraph (15) of this section.
- (C) Social security benefits, railroad retirement benefits, unemployment compensation, pensions, retirement benefit payments, payments from annuities, and similar payments made to an employee or to the beneficiary of an employee under a retirement program or plan, disability payments received from private industry or local, state, or federal governments or from charitable, religious or educational organizations, and the proceeds of sickness, accident, or liability insurance policies. As used in division (11)(C) of this section, "unemployment compensation" does not include supplemental unemployment compensation described in section 3402(o)(2) of the Internal Revenue Code.
- (D) The income of religious, fraternal, charitable, scientific, literary, or educational institutions to the extent such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.
- (E) Compensation paid under R.C. 3501.28 or R.C. 3501.36 to a person serving as a precinct election official to the extent that such compensation does not exceed one thousand dollars for the taxable year. Such compensation in excess of one thousand dollars for the taxable year shall be subject to taxation by a municipal corporation. A municipal corporation shall not require the payer of such compensation to withhold any tax from that compensation.
- (F) Dues, contributions, and similar payments received by charitable, religious, educational, or literary organizations or labor unions, lodges, and similar organizations.
- (G) Alimony and child support received.
- (H) Compensation for personal injuries or for damages to property from insurance proceeds or otherwise, excluding compensation paid for lost salaries or wages or awards for punitive damages.

- (I) Income of a public utility when that public utility is subject to the tax levied under R.C. 5727.24 or R.C. 5727.30. Division (11)(I) of this section does not apply for purposes of R.C. Chapter 5745.
- (J) Gains from involuntary conversions, interest on federal obligations, items of income subject to a tax levied by the state and that a municipal corporation is specifically prohibited by law from taxing, and income of a decedent's estate during the period of administration except such income from the operation of a trade or business.
- (K) Compensation or allowances excluded from federal gross income under section 107 of the Internal Revenue Code.
- (L) Employee compensation that is not qualifying wages as defined in division (33) of this section.
- (M) Compensation paid to a person employed within the boundaries of a United States Air Force base under the jurisdiction of the United States Air Force that is used for the housing of members of the United States Air Force and is a center for Air Force operations, unless the person is subject to taxation because of residence or domicile. If the compensation is subject to taxation because of residence or domicile, tax on such income shall be payable only to the municipal corporation of residence or domicile.
- (N) An S corporation shareholder's distributive share of net profits of the S corporation, other than any part of the distributive share of net profits that represents wages as defined in section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in section 1402(a) of the Internal Revenue Code.
- (O)
 - (i) Except as provided in divisions (11)(O)(ii), (iii), and (iv) of this section, qualifying wages described in division (B)(1) or (E) of section 39.052 of this chapter to the extent the qualifying wages are not subject to withholding for the municipality under either of those divisions.
 - (ii) The exemption provided in division (11)(O)(i) of this section does not apply with respect to the municipal corporation in which the employee resided at the time the employee earned the qualifying wages.
 - (iii) The exemption provided in division (11)(O)(i) of this section does not apply to qualifying wages that an employer elects to withhold under division (D)(2) of section 39.052 of this chapter.
 - (iv) The exemption provided in division (11)(O)(i) of this section does not apply to qualifying wages if both of the following conditions apply:
 - (a) For qualifying wages described in division (B)(1) of section 39.052 of this chapter, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employee's principal place of

work is situated, or, for qualifying wages described in division (E) of section 39.052 of this chapter, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employer's fixed location is located;

(b) The employee receives a refund of the tax described in division (11)(O)(iv)(a) of this section on the basis of the employee not performing services in that municipal corporation.

(P) (i) Except as provided in division (11)(P)(ii) or (iii) of this section, compensation that is not qualifying wages paid to a nonresident individual for personal services performed in the municipality on not more than twenty days in a taxable year.

(ii) The exemption provided in division (11)(P)(i) of this section does not apply under either of the following circumstances:

(a) The individual's base of operation is located in the municipality.

(b) The individual is a professional athlete, professional entertainer, or public figure, and the compensation is paid for the performance of services in the individual's capacity as a professional athlete, professional entertainer, or public figure. For purposes of division (11)(P)(ii)(b) of this section, "**PROFESSIONAL ATHLETE**," "**PROFESSIONAL ENTERTAINER**," and "**PUBLIC FIGURE**" have the same meanings as in section 39.052 of this chapter.

(iii) Compensation to which division (11)(P) of this section applies shall be treated as earned or received at the individual's base of operation. If the individual does not have a base of operation, the compensation shall be treated as earned or received where the individual is domiciled.

(iv) For purposes of division (11)(P) of this section, "**BASE OF OPERATION**" means the location where an individual owns or rents an office, storefront, or similar facility to which the individual regularly reports and at which the individual regularly performs personal services for compensation.

(Q) Compensation paid to a person for personal services performed for a political subdivision on property owned by the political subdivision, regardless of whether the compensation is received by an employee of the subdivision or another person performing services for the subdivision under a contract with the subdivision, if the property on which services are performed is annexed to a municipal corporation pursuant to R.C. 709.023 on or after March 27, 2013, unless the person is subject to such taxation because of residence. If the compensation is subject to taxation because of residence, municipal income tax shall be payable only to the municipal corporation of residence.

- (R) In the case of a tax administered, collected, and enforced by a municipal corporation pursuant to an agreement with the board of directors of a joint economic development district under R.C. 715.72, the net profits of a business, and the income of the employees of that business, exempted from tax under division (Q) of that section.
- (S) Income the taxation of which is prohibited by the constitution or laws of the United States.

Any item of income that is exempt income of a pass-through entity under division (11) of this section is exempt income of each owner of the pass-through entity to the extent of that owner's distributive or proportionate share of that item of the entity's income.

(12) **"FORM 2106"** means Internal Revenue Service Form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.

(13) **"GENERIC FORM"** means an electronic or paper form that is not prescribed by a particular municipal corporation and that is designed for reporting taxes withheld by an employer, agent of an employer, or other payer, estimated municipal income taxes, or annual municipal income tax liability, including a request for refund.

(14) **"INCOME"** means the following:

(A) (i) For residents, all income, salaries, qualifying wages, commissions, tips, bonuses, fees, gifts in lieu of pay, gratuities, strike pay, vehicle allowance, employer paid premiums for group life insurance to the extent taxable for federal income tax purposes, incentive payments, no matter how described, including, but not limited to, payments to induce early retirement and other compensation from whatever source earned or received by the resident, including the resident's distributive share of the net profit of pass-through entities owned directly or indirectly by the resident and any net profit of the resident.

(ii) For the purposes of division (14)(A)(i) of this section:

- (a) Any net operating loss of the resident incurred in the taxable year and the resident's distributive share of any net operating loss generated in the same taxable year and attributable to the resident's ownership interest in a pass-through entity shall be allowed as a deduction, for that taxable year and the following five taxable years, against any other net profit of the resident or the resident's distributive share of any net profit attributable to the resident's ownership interest in a pass-through entity until fully utilized, subject to division (14)(A)(iv) of this section;
- (b) The resident's distributive share of the net profit of each pass-through entity owned directly or indirectly by the resident shall be calculated without regard to any net operating loss that is carried forward by that entity from a prior

taxable year and applied to reduce the entity's net profit for the current taxable year.

(iii) Division (14)(A)(ii) of this section does not apply with respect to any net profit or net operating loss attributable to an ownership interest in an S corporation unless shareholders' distributive shares of net profits from S corporations are subject to tax in the municipal corporation as provided in division 11(N).

(iv) Any amount of a net operating loss used to reduce a taxpayer's net profit for a taxable year shall reduce the amount of net operating loss that may be carried forward to any subsequent year for use by that taxpayer. In no event shall the cumulative deductions for all taxable years with respect to a taxpayer's net operating loss exceed the original amount of that net operating loss available to that taxpayer.

(B) In the case of nonresidents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the nonresident for work done, services performed or rendered, or activities conducted in the municipality, including any net profit of the nonresident, but excluding the nonresident's distributive share of the net profit or loss of only pass-through entities owned directly or indirectly by the nonresident.

(C) For taxpayers that are not individuals, net profit of the taxpayer;

(D) Lottery, sweepstakes, gambling and sports winnings, winnings from games of chance, and prizes and awards. If the taxpayer is a professional gambler for federal income tax purposes, the taxpayer may deduct related wagering losses and expenses to the extent authorized under the Internal Revenue Code and claimed against such winnings. Credit for tax withheld or paid to another municipal corporation on such winnings paid to the municipal corporation where winnings occur is limited to the credit as specified in section 39.081 of this chapter.

(15) **"INTANGIBLE INCOME"** means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in R.C. Chapter 5701, and patents, copyrights, trademarks, trade names, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. "Intangible income" does not include prizes, awards, or other income associated with any lottery winnings, gambling winnings, or other similar games of chance.

(16) **"INTERNAL REVENUE CODE"** means the "Internal Revenue Code of 1986," 100 Sta. 2085, 26 U.S.C.A. 1, as amended.

(17) **"LIMITED LIABILITY COMPANY"** means a limited liability company formed under R.C. Chapter 1705 or under the laws of another state.

(18) **"LOCAL BOARD OF TAX REVIEW"** and **"BOARD OF TAX REVIEW"** means the entity created under section 39.18 of this chapter.

(19) **"MUNICIPAL CORPORATION"** means, in general terms, a status conferred upon a local government unit, by state law giving the unit certain autonomous operating authority such as the power of taxation, power of eminent domain, police power and regulatory power, and includes a joint economic development district or joint economic development zone that levies an income tax under R.C. 715.691, 715.70, 715.71, or 715.74.

(20) (A) **"MUNICIPAL TAXABLE INCOME"** means the following:

- (i) For a person other than an individual, income apportioned or situated to the municipality under section 39.062 of this chapter
- (ii) For an individual who is a resident of a municipal corporation other than a qualified municipal corporation, Ohio adjusted income reduced by exempt income to the extent otherwise included in income, then reduced as provided in division (20)(B) of this section.
- (iii) For an individual who is a nonresident of the municipality, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or situated to the municipality under section 39.062 of this chapter, then reduced as provided in division (20)(B) of this section.

(B) In computing the municipal taxable income of a taxpayer who is an individual, the taxpayer may subtract, as provided in division (20)(A)(ii)(a) or (iii) of this section, the amount of the individual's employee business expenses reported on the individual's form 2106 that the individual deducted for federal income tax purposes for the taxable year, subject to the limitation imposed by section 67 of the Internal Revenue Code. For the municipal corporation in which the taxpayer is a resident, the taxpayer may deduct all such expenses allowed for federal income tax purposes. For a municipal corporation in which the taxpayer is not a resident, the taxpayer may deduct such expenses only to the extent the expenses are related to the taxpayer's performance of personal services in that nonresident municipal corporation.

(21) **"MUNICIPALITY"** as used herein means the City of Beavercreek, unless the context of the surrounding text clearly indicates otherwise.

(22) **"NET OPERATING LOSS"** means a loss incurred by a person in the operation of a trade or business. "Net operating loss" does not include unutilized losses resulting from basis limitations, at-risk limitations, or passive activity loss limitations.

(23) (A) **"NET PROFIT"** for a person who is an individual means the individual's net profit required to be reported on Schedule C, Schedule E, or Schedule F reduced by any net operating loss carried forward. For the purposes of this division, the net operating loss carried forward shall be calculated and deducted in the same manner as provided in division (23)(C) of this section.

(B) **"NET PROFIT"** for a person other than an individual means adjusted federal taxable income reduced by any net operating loss incurred by the person in a taxable year beginning on or after January 1, 2022, subject to the limitations of division (23)(C) of this section.

(C) (i) The amount of such operating loss shall be deducted from net profit to the extent necessary to reduce municipal taxable income to zero, with any remaining unused portion of the net operating loss carried forward to not more than five (5) consecutive taxable years following the taxable year in which the loss was incurred, but in no case for more years than necessary for the deduction to be fully utilized.

(ii) No person shall use the deduction allowed by division (23)(C) of this section to offset qualifying wages.

(iii)(a) For taxable years beginning in 2022, a person may not deduct more than fifty percent of the amount of the deduction otherwise allowed by division (23)(C) of this section.

(b) For taxable years beginning in 2023 or thereafter, a person may deduct the full amount allowed by (23)(C) of this section without regard to the limitation of division (23)(C)(iii)(a) of this section.

(vi) Nothing in division (23)(C)(iii)(a) of this section precludes a person from carrying forward, for use with respect to any return filed for a taxable year beginning after 2022, any amount of net operating loss that was not fully utilized by operation of division (23)(C)(iii)(a) of this section. To the extent that an amount of net operating loss that was not fully utilized in one or more taxable years by operation of division (23)(C)(iii)(a) of this section is carried forward for use with respect to a return filed for a taxable year beginning in 2022, the limitation described in division (23)(C)(iii)(a) of this section shall apply to the amount carried forward.

(D) For the purposes of this chapter, and notwithstanding division (23)(A) of this section, net profit of a disregarded entity shall not be taxable as against that disregarded entity but shall instead be included in the net profit of the owner of the disregarded entity.

(E) (i) For purposes of this chapter, **"PUBLICLY TRADED PARTNERSHIP"** means any partnership, an interest in which is regularly traded on an established securities market. A "publicly traded partnership" may have any number of partners.

(ii) For the purposes of this chapter, and notwithstanding any other provision of this chapter, the net profit of a publicly traded partnership that makes the election described in division (23)(E) of this section shall be taxed as if the partnership were a C corporation, and shall not be treated as the net profit or income of any owner of the partnership.

- (iii) A publicly traded partnership that is treated as a partnership for federal income tax purposes and that is subject to tax on its net profits in one or more municipal corporations in this state may elect to be treated as a C corporation for municipal income tax purposes. The publicly traded partnership shall make the election in every municipal corporation in which the partnership is subject to taxation on its net profits. The election shall be made on the annual tax return filed in each such municipal corporation. Once the election is made, the election is binding for a five-year period beginning with the first taxable year of the initial election. The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing municipal income tax returns as a C corporation for municipal purposes under division (E)(iv) of this section.
- (iv) An election to discontinue filing as a C corporation must be made in the first year following the last year of a five-year election period in effect under division (E)(iii) of this section. The election to discontinue filing as a C corporation is binding for a five-year period beginning with the first taxable year of the election and continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing municipal income tax returns as a partnership for municipal purposes. An election to discontinue filing as a partnership must be made in the first year following the last year of a five-year election period.
- (v) The publicly traded partnership shall not be required to file the election with any municipal corporation in which the partnership is not subject to taxation on its net profits, but division (E) of this section applies to all municipal corporations in which an individual owner of the partnership resides.
- (vi) The individual owners of the partnership not filing as a C Corporation shall be required to file with their municipal corporation of residence, and report partnership distribution of net profit.

(24) **"NONRESIDENT"** means an individual that is not a resident of the municipality.

(25) **"OHIO BUSINESS GATEWAY"** means the online computer network system, created under R.C. 125.30, that allows persons to electronically file business forms with state agencies and includes any successor electronic filing and payment system.

(26) **"OTHER PAYER"** means any person, other than an individual's employer or the employer's agent, that pays an individual any amount included in the federal gross income of the individual. "Other payer" includes casino operators and video lottery terminal sales agents.

(27) **"PASS-THROUGH ENTITY"** means a partnership not treated as an association taxable as a C corporation for federal income tax purposes, a limited liability company not treated as an association taxable as a C corporation for federal income tax purposes, an S corporation, or any other class of entity from which the income or profits of the entity are given pass-through treatment for federal income tax purposes. "Pass-through entity" does not include a trust, estate, grantor of a grantor trust, or disregarded entity.

(28) **"PENSION"** means a retirement benefit plan, regardless of whether the plan satisfies the qualifications described under section 401(a) of the Internal Revenue Code, including amounts that are taxable under the "Federal Insurance Contributions Act," Chapter 21 of the Internal Revenue Code, excluding employee contributions and elective deferrals, and regardless of whether such amounts are paid in the same taxable year in which the amounts are included in the employee's wages, as defined by section 3121(a) of the Internal Revenue Code.

(29) **"PERSON"** includes individuals, firms, companies, joint stock companies, business trusts, estates, trusts, partnerships, limited liability partnerships, limited liability companies, associations, C corporations, S corporations, governmental entities, and any other entity.

(30) **"POSTAL SERVICE"** means the United States postal service, or private delivery service delivering documents and packages within an agreed upon delivery schedule, or any other carrier service delivering the item.

(31) **"POSTMARK DATE," "DATE OF POSTMARK,"** and similar terms include the date recorded and marked by a delivery service and recorded electronically to a database kept in the regular course of its business and marked on the cover in which the payment or document is enclosed, the date on which the payment or document was given to the delivery service for delivery

(32) **"QUALIFIED MUNICIPAL CORPORATION"** means a municipal corporation that, by resolution or ordinance adopted on or before December 31, 2011, adopted Ohio adjusted gross income, as defined by R.C. 5747.01, as the income subject to tax for the purposes of imposing a municipal income tax.

(33) **"QUALIFYING WAGES"** means wages, as defined in section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted as follows:

(A) Deduct the following amounts:

- (i) Any amount included in wages if the amount constitutes compensation attributable to a plan or program described in section 125 of the Internal Revenue Code.
- (ii) Any amount included in wages if the amount constitutes payment on account of a disability related to sickness or an accident paid by a party unrelated to the employer, agent of an employer, or other payer.
- (iii) Any amount included in wages that is exempt income.

(B) Add the following amounts:

- (i) Any amount not included in wages solely because the employee was employed by the employer before April 1, 1986.

- (ii) Any amount not included in wages because the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option. Division (33)(B)(ii) of this section applies only to those amounts constituting ordinary income.
 - (iii) Any amount not included in wages if the amount is an amount described in section 401(k), 403(b), or 457 of the Internal Revenue Code. Division (33)(B)(iii) of this section applies only to employee contributions and employee deferrals.
 - (iv) Any amount that is supplemental unemployment compensation benefits described in section 3402(o)(2) of the Internal Revenue Code and not included in wages.
 - (v) Any amount received that is treated as self-employment income for federal tax purposes in accordance with section 1402(a)(8) of the Internal Revenue Code.
 - (vi) Any amount not included in wages if all of the following apply:
 - (a) For the taxable year the amount is employee compensation that is earned outside of the United States and that either is included in the taxpayer's gross income for federal income tax purposes or would have been included in the taxpayer's gross income for such purposes if the taxpayer did not elect to exclude the income under section 911 of the Internal Revenue Code;
 - (b) For no preceding taxable year did the amount constitute wages as defined in section 3121(a) of the Internal Revenue Code;
 - (c) For no succeeding taxable year will the amount constitute wages; and
 - (d) For any taxable year the amount has not otherwise been added to wages pursuant to either division (33)(B) of this section or R.C. 718.03, as that section existed before the effective date of H.B. 5 of the 130th general assembly, March 23, 2015.
- (34) **"RELATED ENTITY"** means any of the following:
- (A) An individual stockholder, or a member of the stockholder's family enumerated in section 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty percent of the value of the taxpayer's outstanding stock;
 - (B) A stockholder, or a stockholder's partnership, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, estates, trusts, or corporations own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty percent of the value of the taxpayer's outstanding stock;
 - (C) A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation

under division (34)(D) of this section, provided the taxpayer owns directly, indirectly, beneficially, or constructively, at least fifty percent of the value of the corporation's outstanding stock;

- (D) The attribution rules described in section 318 of the Internal Revenue Code apply for the purpose of determining whether the ownership requirements in divisions (34)(A) to (C) of this section have been met.

(35) "**RELATED MEMBER**" means a person that, with respect to the taxpayer during all or any portion of the taxable year, is either a related entity, a component member as defined in section 1563(b) of the Internal Revenue Code, or a person to or from whom there is attribution of stock ownership in accordance with section 1563(e) of the Internal Revenue Code except, for purposes of determining whether a person is a related member under this division, "twenty per cent" shall be substituted for "5 percent" wherever "5 percent" appears in section 1563(e) of the Internal Revenue Code.

(36) "**RESIDENT**" means an individual who is domiciled in the municipality as determined under section 39.042 of this chapter.

(37) "**RETIREMENT BENEFIT PLAN**" is an arrangement under which an entity provides benefits to individuals either on or after their termination of service because of retirement or disability regardless of whether the arrangement satisfies the requirements of Internal Revenue Code Section 401(a). Retirement Benefit Plan does not include wage continuation payments, severance payments or payments for accrued personal or vacation time or elective employee contributions or deferrals.

(38) "**S CORPORATION**" means a person that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.

(39) "**SCHEDULE C**" means Internal Revenue Service Schedule C (Form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

(40) "**SCHEDULE E**" means Internal Revenue Service Schedule E (Form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

(41) "**SCHEDULE F**" means Internal Revenue Service Schedule F (Form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

(42) "**SINGLE MEMBER LIMITED LIABILITY COMPANY**" means a limited liability company that has one direct member.

(43) "**SMALL EMPLOYER**" means any employer that had total revenue of less than five hundred thousand dollars during the preceding taxable year. For purposes of this division, "total revenue" means receipts of any type or kind, including, but not limited to, sales receipts; payments; rents; profits; gains, dividends, and other investment income; commissions; premiums; money; property; grants; contributions; donations; gifts; program service revenue;

patient service revenue; premiums; fees, including premium fees and service fees; tuition payments; unrelated business revenue; reimbursements; any type of payment from a governmental unit, including grants and other allocations; and any other similar receipts reported for federal income tax purposes or under generally accepted accounting principles. "Small employer" does not include the federal government; any state government, including any state agency or instrumentality; any political subdivision; or any entity treated as a government for financial accounting and reporting purposes.

(44) (a) **"TAX ADMINISTRATOR"** means the individual charged with direct responsibility for administration of an income tax levied by a municipal corporation in accordance with this chapter, and also includes the following:

- (A) A municipal corporation acting as the agent of another municipal corporation;
- (B) A person retained by a municipal corporation to administer a tax levied by the municipal corporation, but only if the municipal corporation does not compensate the person in whole or in part on a contingency basis;
- (C) The Central Collection Agency (CCA) or the Regional Income Tax Agency (RITA) or their successors in interest, or another entity organized to perform functions similar to those performed by the Central Collection Agency and the Regional Income Tax Agency.

Tax Administrator does not include the State Tax Commissioner.

(b) **"TAX COMMISSIONER"** means the Tax Commissioner appointed under R.C. 121.03.

(45) **"TAX RETURN PREPARER"** means any individual described in section 7701(a)(36) of the Internal Revenue Code and 26 C.F.R. 301.7701-15 .

(46) **"TAXABLE YEAR"** means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.

(47) **"TAXPAYER"** means a person subject to a tax levied on income by a municipal corporation in accordance with this chapter. "Taxpayer" does not include a grantor trust or a disregarded entity.

(48) **"TAXPAYERS' RIGHTS AND RESPONSIBILITIES"** means the rights provided to taxpayers in R.C. 718.11 , 718.12 , 718.19, 718.23, 718.36, 718.37, 718.38, 5717.011 , and 5717.03 and any corresponding ordinances of the municipality, and the responsibilities of taxpayers to file, report, withhold, remit, and pay municipal income tax and otherwise comply with R.C. Chapter 718 and resolutions, ordinances, and rules adopted by a municipal corporation for the imposition and administration of a municipal income tax.

(49) **"VIDEO LOTTERY TERMINAL"** has the same meaning as in R.C. 3770.21.

(50) "VIDEO LOTTERY TERMINAL SALES AGENT" means a lottery sales agent licensed under R.C. Chapter 3770 to conduct video lottery terminals on behalf of the state pursuant to R.C. 3770.21.

39.04 INCOME SUBJECT TO TAX FOR INDIVIDUALS

39.041 DETERMINING MUNICIPAL TAXABLE INCOME FOR INDIVIDUALS

(A) "Municipal Taxable Income" for a resident of the municipality is calculated as follows:

(1) "Income" reduced by "Exempt Income" to the extent such exempt income is otherwise included in income, reduced by allowable employee business expense deduction as found in division (20)(B) of section 39.03 of this chapter equals "Municipal Taxable Income".

(a) "Income" is defined in section 39.03 (14) of this chapter.

(i) "Qualifying Wages" is defined in section 39.03(33).

(ii) "Net profit" is included in "income" and is defined in section 39.03 (23) of this chapter. This section also provides that the net operating loss carryforward shall be calculated and deducted in the same manner as provided in division (1)(H) of section 39.03. Treatment of net profits received by an individual taxpayer from rental real estate is provided in section 39.062(E).

(iii) Section 39.03(14) provides the following: offsetting and net operating loss carryforward treatment in (14)(A)(ii)(a); resident's distributive share of net profit from pass through entity treatment in (14)(A)(ii)(b); treatment of S Corporation distributive share of net profit in the hands of the shareholder in (14)(A)(iii); restriction of amount of loss permitted to be carried forward for use by taxpayer in a subsequent taxable year in (14)(A)(iv).

(iv) "Pass Through Entity" is defined in section 39.03(27).

(b) "Exempt Income" is defined in section 39.03 (11) of this chapter.

(c) Allowable employee business expense deduction is described in (20)(B) of section 39.03 of this chapter and is subject to the limitations provided in that section.

(B) "Municipal Taxable Income" for a nonresident of the municipality is calculated as follows:

(1) "Income" reduced by "Exempt Income" to the extent such exempt income is otherwise included in income, as applicable, apportioned or situated to the municipality as provided in section 39.062 of this chapter, reduced by allowable employee business expense deduction as found in (20)(B) of section 39.03 of this chapter equals "Municipal Taxable Income".

(a) "Income" is defined in section 39.03(14) of this chapter.

(i) "Qualifying Wages" is defined in section 39.03(34).

(ii) "Net profit" is included in "income" and is defined in section 39.03(23) of this chapter. "Net profit" for a nonresident individual includes any net profit of the nonresident but excludes the distributive share of net profit or loss of only pass through entity owned directly or indirectly by the nonresident.

(iii) "Pass Through Entity" is defined in section 39.03(27).

(b) "Exempt Income" is defined in section 39.03(11) of this chapter.

(c) "Apportioned or situated to the municipality as provided in section 39.062 of this chapter" includes the apportionment of net profit income attributable to work done or services performed in the municipality. Treatment of net profits received by an individual taxpayer from rental real estate is provided in section 39.062(E).

(d) "Allowable employee business expense deduction" as described in (20)(B) of section 39.03 of this chapter, is subject to the limitations provided in that section. For a nonresident of the municipality, the deduction is limited to the extent the expenses are related to the performance of personal services by the nonresident in the municipality.

39.042 DOMICILE.

(A) As used in this section:

(1) "Domicile" means the true, fixed and permanent home of the taxpayer to which whenever absent, the taxpayer intends to return.

(2) An individual is presumed to be domiciled in the municipality for all or part of a taxable year if the individual was domiciled in the municipality on the last day of the immediately preceding taxable year or if the Tax Administrator reasonably concludes that the individual is domiciled in the municipality for all or part of the taxable year.

(3) An individual may rebut the presumption of domicile described in division (A)(1) of this section if the individual establishes by a preponderance of the evidence that the individual was not domiciled in the municipality for all or part of the taxable year.

(B) For the purpose of determining whether an individual is domiciled in the municipality for all or part of a taxable year, factors that may be considered include, but are not limited to, the following:

- (1) The individual's domicile in other taxable years;
- (2) The location at which the individual is registered to vote;
- (3) The address on the individual's driver's license;
- (4) The location of real estate for which the individual claimed a property tax exemption or reduction allowed on the basis of the individual's residence or domicile;
- (5) The location and value of abodes owned or leased by the individual;
- (6) Declarations, written or oral, made by the individual regarding the individual's residency;
- (7) The primary location at which the individual is employed;
- (8) The location of financial institutions in which the individual or the individual's spouse have any accounts, including, but not limited to, checking, savings, certificates of deposit, or individual retirement accounts;
- (9) The location of issuers of credit cards to the individual or the individual's spouse or of any other persons making installment loans to the individual or the individual's spouse;
- (10) The location of institutional lenders which have made loans to, or which are guaranteed by, the individual or the individual's spouse;
- (11) The location of investment facilities, brokerage firms, realtors, financial advisors, or consultants used by the individual or the individual's spouse;
- (12) The location of either the insurance company that issued or the insurance agent that sold any policy of insurance to the individual or the individual's spouse, including, but not limited to, life, health, disability, automobile, or homeowner's insurance;
- (13) The location of law firms, accounting firms, and similar professionals utilized by the individual or the individual's spouse for legal, tax, accounting, financial, or retirement services;
- (14) The location of physicians, dentists, osteopaths, optometrists, or other health care providers, or veterinarians utilized by the individual or the individual's spouse;
- (15) The location of organizations described in section 501(c) of the Internal Revenue Code to which the individual or the individual's spouse make contributions or other payments or in which they participate as a congregant, member, board member, committee member, adviser, or consultant;
- (16) The location of burial plots owned by the individual or the individual's spouse;
- (17) The location of business ventures or business entities in which the individual or the individual's spouse has a more than twenty-five percent ownership interest or in which the individual exercises, either individually or jointly, significant control over the affairs of the venture or entity;

- (18) The recitation of residency or domicile in a will, trust, or other estate planning document;
- (19) The location of the individual's friends, dependents as defined in section 152 of the Internal Revenue Code, and family members other than the individual's spouse, if the individual is not legally separated from the individual's spouse under a decree of divorce or separate maintenance as provided in section 7703(a)(2) of the Internal Revenue Code;
- (20) The location of educational institutions attended by the individual's dependents as defined in section 152 of the Internal Revenue Code, to the extent that tuition paid to such educational institution is based on the residency of the individual or the individual's spouse in the municipal corporation where the educational institution is located;
- (21) The location of trustees, executors, guardians, or other fiduciaries named in estate planning documents of the individual or the individual's spouse;
- (22) The location of all businesses at which the individual or the individual's spouse makes purchases of tangible personal property;
- (23) The location where the individual married;
- (24) The location or identity of recipients of political contributions made by the individual or the individual's spouse; and
- (25) The number of contact periods the individual has with the municipal corporation. For the purposes of this division, an individual has one "contact period" with a municipal corporation if the individual is away overnight from the individual's abode located outside of the municipal corporation and while away overnight from that abode spends at least some portion, however minimal, of each of two consecutive days in the municipal corporation.

39.043 EXEMPTION FOR MEMBER OR EMPLOYEE OF GENERAL ASSEMBLY AND CERTAIN JUDGES.

(A) Only the municipal corporation of residence shall be permitted to levy a tax on the income of any member or employee of the Ohio General Assembly, including the Lieutenant Governor, whose income is received as a result of services rendered as such member or employee and is paid from appropriated funds of this state.

(B) Only the municipal corporation of residence and the City of Columbus shall levy a tax on the income of the Chief Justice or a Justice of the Supreme Court received as a result of services rendered as the Chief Justice or Justice. Only the municipal corporation of residence shall levy a tax on the income of a judge sitting by assignment of the Chief Justice or on the income of a district court of appeals judge sitting in multiple locations within the district, received as a result of services rendered as a judge.

39.05 COLLECTION AT SOURCE.

39.051 COLLECTION AT SOURCE; WITHHOLDING FROM QUALIFYING WAGES.

(A) (1) Each employer, agent of an employer, or other payer located or doing business in the municipality shall withhold from each employee an amount equal to the qualifying wages of the employee earned by the employee in the municipality multiplied by the applicable rate of the municipality's income tax, except for qualifying wages for which withholding is not required under section 39.052 of this chapter or division (D) or (F) of this section. An employer, agent of an employer, or other payer shall deduct and withhold the tax from qualifying wages on the date that the employer, agent, or other payer directly, indirectly, or constructively pays the qualifying wages to, or credits the qualifying wages to the benefit of, the employee.

(2) In addition to withholding the amounts required under division (A)(1) of this section, an employer, agent of an employer, or other payer may also deduct and withhold, on the request of an employee, taxes for the municipal corporation in which the employee is a resident.

(B) (1) An employer, agent of an employer, or other payer shall remit to the Tax Administrator of the municipality the greater of the income taxes deducted and withheld or the income taxes required to be deducted and withheld by the employer, agent, or other payer, along with any report required by the Tax Administrator to accompany such payment, according to the following schedule:

(a) Any employer, agent of an employer, or other payer not required to make payments under division (B)(1)(b) or (B)(1)(c) of this section of taxes required to be deducted and withheld shall make quarterly payments to the Tax Administrator not later than the last day of the month following the last day of each calendar quarter.

(b) Taxes required to be deducted and withheld shall be remitted monthly to the Tax Administrator if the total taxes deducted and withheld or required to be deducted and withheld by the employer, agent, or other payer on behalf of the municipal corporation in the preceding calendar year exceeded two thousand three hundred ninety-nine dollars, or if the total amount of taxes deducted and withheld or required to be deducted and withheld on behalf of the municipality in any month of the preceding calendar quarter exceeded two hundred dollars. Payment under division (B)(1)(b) of this section shall be made to the Tax Administrator not later than fifteen (15) days after the last day of each month.

(c) Taxes required to be deducted and withheld shall be remitted semimonthly to the Tax Administrator if the total taxes deducted and withheld or required to be deducted on behalf of the municipality in the preceding calendar year exceeded eleven thousand nine hundred ninety-nine dollars, or if the total amount of taxes deducted and withheld or required to be deducted and withheld on behalf of the municipality in any month of the preceding calendar year exceeded one thousand dollars. The payment under division (B)(1)(c) of this section shall be made to the Tax Administrator not later than one of the following:

- (i) If the taxes were deducted and withheld or required to be deducted and withheld during the first fifteen days of a month, the third banking day after the fifteenth day of that month;
- (ii) If the taxes were deducted and withheld or required to be deducted and withheld after the fifteenth day of a month and before the first day of the immediately following month, the third banking day after the last day of that month.
- (iii) The Tax Administrator may determine, by Administrative Order, when semimonthly withholding will be required.

(d) An employer, agent of an employer or other payer is required to make payment by electronic funds transfer to the Tax Administrator of all taxes deducted and withheld on behalf of the employee for remittance to the municipality if the employer, agent of an employer, or other payer is required to make payments electronically for the purpose of paying federal taxes withheld on payments to employees under section 6302 of the Internal Revenue Code, 26 C.F.R. 31.6302-1, or any other federal statute or regulation. The payment of tax by electronic funds transfer under this division does not affect an employer's, agent's, or other payer's obligation to file any return as required under this section. Once the threshold for remitting payment electronically for federal purposes has been met, any accrued municipal income tax withheld from employee qualifying wages earned within the municipality shall be remitted to the municipality at the same time that the federal tax withholding payment is due.

(C) An employer, agent of an employer, or other payer shall make and file a return showing the amount of tax withheld by the employer, agent, or other payer from the qualifying wages of each employee and remitted to the Tax Administrator. A return filed by an employer, agent, or other payer under this division shall be accepted by the Tax Administrator and the municipality as the return required of an employee whose sole income subject to the tax under this chapter is the qualifying wages reported by the employee's employer, agent of an employer, or other payer, unless the municipality requires all resident individual taxpayers to file a tax return under section 39.091 of this chapter.

(D) An employer, agent of an employer, or other payer is not required to withhold municipal income tax with respect to an individual's disqualifying disposition of an incentive stock option if, at the time of the disqualifying disposition, the individual is not an employee of either the corporation with respect to whose stock the option has been issued or of such corporation's successor entity.

(E) (1) An employee is not relieved from liability for a tax by the failure of the employer, agent of an employer, or other payer to withhold the tax as required under this chapter or by the employer's, agent's, or other payer's exemption from the requirement to withhold the tax.

(2) The failure of an employer, agent of an employer, or other payer to remit to the municipality the tax withheld relieves the employee from liability for that tax unless the employee colluded with the employer, agent, or other payer in connection with the failure to remit the tax withheld.

(F) Compensation deferred before June 26, 2003, is not subject to any municipal corporation income tax or municipal income tax withholding requirement to the extent the deferred compensation does not constitute qualifying wages at the time the deferred compensation is paid or distributed.

(G) Each employer, agent of an employer, or other payer required to withhold taxes is liable for the payment of that amount required to be withheld, whether or not such taxes have been withheld, and such amount shall be deemed to be held in trust for the municipality until such time as the withheld amount is remitted to the Tax Administrator.

(H) On or before the last day of February of each year, an employer shall file a Withholding Reconciliation Return with the Tax Administrator listing the names, addresses, and social security numbers of all employees from whose qualifying wages tax was withheld or should have been withheld for the municipality during the preceding calendar year, the amount of tax withheld, if any, from each such employee's qualifying wages, the total amount of qualifying wages paid to such employee during the preceding calendar year, the name of every other municipal corporation for which tax was withheld or should have been withheld from such employee during the preceding calendar year, any other information required for federal income tax reporting purposes on Internal Revenue Service Form W-2 or its equivalent form with respect to such employee, and other information as may be required by the Tax Administrator.

(I) The officer or the employee of the employer, agent of an employer, or other payer with control or direct supervision of or charged with the responsibility for withholding the tax or filing the reports and making payments as required by this section, shall be personally liable for a failure to file a report or pay the tax due as required by this section. The dissolution of an employer, agent of an employer, or other payer does not discharge the officer's or employee's liability for a failure of the employer, agent of an employer, or other payer to file returns or pay any tax due.

(J) An employer is required to deduct and withhold municipal income tax on tips and gratuities received by the employer's employees and constituting qualifying wages only to the extent that the tips and gratuities are under the employer's control. For the purposes of this division, a tip or gratuity is under the employer's control if the tip or gratuity is paid by the customer to the employer for subsequent remittance to the employee, or if the customer pays the tip or gratuity by credit card, debit card, or other electronic means.

(K) A Tax Administrator shall consider any tax withheld by an employer at the request of an employee when such tax is not otherwise required to be withheld by this chapter to be tax required to be withheld and remitted for the purposes of this section.

39.052 COLLECTION AT SOURCE; OCCASIONAL ENTRANT.

(A) The following terms as used in this section:

(1) "Employer" includes a person that is a related member to or of an employer.

(2) "Professional athlete" means an athlete who performs services in a professional athletic event for wages or other remuneration.

(3) "Professional entertainer" means a person who performs services in the professional performing arts for wages or other remuneration on a per-event basis.

(4) "Public figure" means a person of prominence who performs services at discrete events, such as speeches, public appearances, or similar events, for wages or other remuneration on a per-event basis.

(5) "Fixed location" means a permanent place of doing business in this state, such as an office, warehouse, storefront, or similar location owned or controlled by an employer.

(6) "Worksite location" means a construction site or other temporary worksite in this state at which the employer provides services for more than twenty days during the calendar year. "Worksite location" does not include the home of an employee.

(7) "Principal place of work" means the fixed location to which an employee is required to report for employment duties on a regular and ordinary basis. If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location, "principal place of work" means the worksite location in this state to which the employee is required to report for employment duties on a regular and ordinary basis. If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location or worksite location, "principal place of work" means the location in this state at which the employee spends the greatest number of days in a calendar year performing services for or on behalf of the employee's employer.

If there is not a single municipal corporation in which the employee spent the "greatest number of days in a calendar year" performing services for or on behalf of the employer, but instead there are two or more municipal corporations in which the employee spent an identical number of days that is greater than the number of days the employee spent in any other municipal corporation, the employer shall allocate any of the employee's qualifying wages subject to division (B)(1)(a) of this section among those two or more municipal corporations. The allocation shall be made using any fair and reasonable method, including, but not limited to, an equal allocation among such municipal corporations or an allocation based upon the time spent or sales made by the employee in each such municipal corporation. A municipal corporation to which qualifying wages are allocated under this division shall be the employee's "principal place of work" with respect to those qualifying wages for the purposes of this section.

For the purposes of this division, the location at which an employee spends a particular day shall be deemed in accordance with division (B)(2) of this section, except that "location" shall be substituted for "municipal corporation" wherever "municipal corporation" appears in that division.

(B) (1) Subject to divisions (C), (E), (F), and (G) of this section, an employer is not required to withhold municipal income tax on qualifying wages paid to an employee for the performance of personal services in a municipal corporation that imposes such a tax if the employee performed such services in the municipal corporation on twenty or fewer days in a calendar year, unless one of the following conditions applies:

(a) The employee's principal place of work is located in the municipality.

(b) The employee performed services at one or more presumed worksite locations in the municipality. For the purposes of this division, "presumed worksite location" means a construction

site or other temporary worksite in this state at which the employer provides services that can reasonably be expected by the employer to last more than twenty days in a calendar year. Services can "reasonably be expected by the employer to last more than twenty days" if either of the following applies at the time the services commence:

- (i) The nature of the services are such that it will require more than twenty days of actual services to complete the services;
- (ii) The agreement between the employer and its customer to perform services at a location requires the employer to perform actual services at the location for more than twenty days.

(c) The employee is a resident of the municipality and has requested that the employer withhold tax from the employee's qualifying wages as provided in section 39.051 of this chapter.

(d) The employee is a professional athlete, professional entertainer, or public figure, and the qualifying wages are paid for the performance of services in the employee's capacity as a professional athlete, professional entertainer, or public figure within the municipality.

(2) For the purposes of division (B)(1) of this section, an employee shall be considered to have spent a day performing services in a municipal corporation only if the employee spent more time performing services for or on behalf of the employer in that municipal corporation than in any other municipal corporation on that day. For the purposes of determining the amount of time an employee spent in a particular location, the time spent performing one or more of the following activities shall be considered to have been spent at the employee's principal place of work:

(a) Traveling to the location at which the employee will first perform services for the employer for the day;

(b) Traveling from a location at which the employee was performing services for the employer to any other location;

(c) Traveling from any location to another location in order to pick up or load, for the purpose of transportation or delivery, property that has been purchased, sold, assembled, fabricated, repaired, refurbished, processed, remanufactured, or improved by the employee's employer;

(d) Transporting or delivering property described in division (B)(2)(c) of this section, provided that, upon delivery of the property, the employee does not temporarily or permanently affix the property to real estate owned, used, or controlled by a person other than the employee's employer;

(e) Traveling from the location at which the employee makes the employee's final delivery or pick-up for the day to either the employee's principal place of work or a location at which the employee will not perform services for the employer.

(C) If the principal place of work of an employee is located in a municipal corporation that imposes an income tax in accordance with this chapter, the exception from withholding requirements described in division (B)(1) of this section shall apply only if, with respect to the employee's qualifying wages described in that division, the employer withholds and remits tax on such qualifying wages to the municipal corporation in which the employee's principal place of work is located.

(D) (1) Except as provided in division (D)(2) of this section, if, during a calendar year, the number of days an employee spends performing personal services in a municipal corporation exceeds the twenty-day threshold described in division (B)(1) of this section, the employer shall withhold and remit tax to that municipal corporation for any subsequent days in that calendar year on which the employer pays qualifying wages to the employee for personal services performed in that municipal corporation.

(2) An employer required to begin withholding tax for a municipal corporation under division (D)(1) of this section may elect to withhold tax for that municipal corporation for the first twenty days on which the employer paid qualifying wages to the employee for personal services performed in that municipal corporation.

(3) If an employer makes the election described in division (D)(2) of this section, the taxes withheld and paid by such an employer during those first twenty days to the municipal corporation in which the employee's principal place of work is located are refundable to the employee.

(E) Without regard to the number of days in a calendar year on which an employee performs personal services in any municipal corporation, an employer shall withhold municipal income tax on all of the employee's qualifying wages for a taxable year and remit that tax only to the municipal corporation in which the employer's fixed location is located if the employer qualifies as a small employer as defined in section 39.03 of this chapter. To determine whether an employer qualifies as a small employer for a taxable year, a Tax Administrator may require the employer to provide the Tax Administrator with the employer's federal income tax return for the preceding taxable year.

(F) Divisions (B)(1) and (D) of this section shall not apply to the extent that a Tax Administrator and an employer enter into an agreement regarding the manner in which the employer shall comply with the requirements of section 39.051 of this chapter.

(G) In the case of a person performing personal services at a petroleum refinery located in a municipal corporation that imposes a tax on income, an employer is not required to withhold municipal income tax on the qualifying wages of such a person if the person performs those services on twelve or fewer days in a calendar year, unless the principal place of work of the employer is located in another municipal corporation in this state that imposes a tax applying to compensation paid to the person for services performed on those days and the person is not liable to that other municipal corporation for tax on the compensation paid for such services. For the purposes of this division, a petroleum refinery is a facility with a standard industrial classification code facility classification of 2911, petroleum refining.

Notwithstanding division (D) of this section, if, during a calendar year, the number of days an individual performs personal services at a petroleum refinery exceeds twelve, the employer shall withhold tax for the municipal corporation for the first twelve days for which the employer paid qualifying wages to the individual and for all subsequent days in the calendar year on which the individual performed services at the refinery.

39.053 COLLECTION AT SOURCE; CASINO AND VLT.

(A) The municipality shall require a casino facility or a casino operator, as defined in Section 6(C)(9) of Article XV, Ohio Constitution, and R.C. 3772.01, respectively, or a lottery sales agent conducting video lottery terminals sales on behalf of the state to withhold and remit municipal income tax with respect to amounts other than qualifying wages as provided in this section.

(B) If a person's winnings at a casino facility are an amount for which reporting to the Internal Revenue Service of the amount is required by section 6041 of the Internal Revenue Code, as amended, the casino operator shall deduct and withhold municipal income tax from the person's winnings at the rate of the tax imposed by the municipal corporation in which the casino facility is located.

(C) Amounts deducted and withheld by a casino operator are held in trust for the benefit of the municipal corporation to which the tax is owed.

(1) On or before the tenth day of each month, the casino operator shall file a return electronically with the Tax Administrator of the municipality, providing the name, address, and social security number of the person from whose winnings amounts were deducted and withheld, the amount of each such deduction and withholding during the preceding calendar month, the amount of the winnings from which each such amount was withheld, the type of casino gaming that resulted in such winnings, and any other information required by the Tax Administrator. With this return, the casino operator shall remit electronically to the municipality all amounts deducted and withheld during the preceding month.

(2) Annually, on or before the thirty-first day of January, a casino operator shall file an annual return electronically with the Tax Administrator of the municipal corporation in which the casino facility is located, indicating the total amount deducted and withheld during the preceding calendar year. The casino operator shall remit electronically with the annual return any amount that was deducted and withheld and that was not previously remitted. If the name, address, or social security number of a person or the amount deducted and withheld with respect to that person was omitted on a monthly return for that reporting period, that information shall be indicated on the annual return.

(3) Annually, on or before the thirty-first day of January, a casino operator shall issue an information return to each person with respect to whom an amount has been deducted and withheld during the preceding calendar year. The information return shall show the total amount of municipal income tax deducted from the person's winnings during the preceding year. The casino operator shall provide to the Tax Administrator a copy of each information return issued under this division. The administrator may require that such copies be transmitted electronically.

(4) A casino operator that fails to file a return and remit the amounts deducted and withheld shall be personally liable for the amount withheld and not remitted. Such personal liability extends to any penalty and interest imposed for the late filing of a return or the late payment of tax deducted and withheld.

(5) If a casino operator sells the casino facility or otherwise quits the casino business, the amounts deducted and withheld along with any penalties and interest thereon are immediately due and payable. The successor shall withhold an amount of the purchase money that is sufficient to cover the amounts deducted and withheld along with any penalties and interest thereon until the predecessor casino operator produces either of the following:

(a) A receipt from the Tax Administrator showing that the amounts deducted and withheld, and penalties and interest thereon have been paid;

(b) A certificate from the Tax Administrator indicating that no amounts are due.

If the successor fails to withhold purchase money, the successor is personally liable for the payment of the amounts deducted and withheld and penalties and interest thereon.

(6) The failure of a casino operator to deduct and withhold the required amount from a person's winnings does not relieve that person from liability for the municipal income tax with respect to those winnings.

(D) If a person's prize award from a video lottery terminal is an amount for which reporting to the Internal Revenue Service is required by section 6041 of the Internal Revenue Code, as amended, the video lottery sales agent shall deduct and withhold municipal income tax from the person's prize award at the rate of the tax imposed by the municipal corporation in which the video lottery terminal facility is located.

(E) Amounts deducted and withheld by a video lottery sales agent are held in trust for the benefit of the municipal corporation to which the tax is owed.

(1) The video lottery sales agent shall issue to a person from whose prize award an amount has been deducted and withheld a receipt for the amount deducted and withheld, and shall obtain from the person receiving a prize award the person's name, address, and social security number in order to facilitate the preparation of returns required by this section.

(2) On or before the tenth day of each month, the video lottery sales agent shall file a return electronically with the Tax Administrator of the municipality providing the names, addresses, and social security numbers of the persons from whose prize awards amounts were deducted and withheld, the amount of each such deduction and withholding during the preceding calendar month, the amount of the prize award from which each such amount was withheld, and any other information required by the Tax Administrator. With the return, the video lottery sales agent shall remit electronically to the Tax Administrator all amounts deducted and withheld during the preceding month.

(3) A video lottery sales agent shall maintain a record of all receipts issued under division (E) of this section and shall make those records available to the Tax Administrator upon request. Such records shall be maintained in accordance with R.C. 5747.17 and any rules adopted pursuant thereto.

(4) Annually, on or before the thirty-first day of January, each video lottery terminal sales agent shall file an annual return electronically with the Tax Administrator of the municipal corporation in which the facility is located indicating the total amount deducted and withheld during the preceding calendar year. The video lottery sales agent shall remit electronically with the annual return any amount that was deducted and withheld and that was not previously remitted. If the name, address, or social security number of a person or the amount deducted and withheld with respect to that person was omitted on a monthly return for that reporting period, that information shall be indicated on the annual return.

(5) Annually, on or before the thirty-first day of January, a video lottery sales agent shall issue an information return to each person with respect to whom an amount has been deducted and withheld during the preceding calendar year. The information return shall show the total amount of municipal income tax deducted and withheld from the person's prize award by the video lottery sales agent during the preceding year. A video lottery sales agent shall provide to the Tax Administrator of the municipal corporation a copy of each information return issued under this division. The Tax Administrator may require that such copies be transmitted electronically.

(6) A video lottery sales agent who fails to file a return and remit the amounts deducted and withheld is personally liable for the amount deducted and withheld and not remitted. Such personal liability extends to any penalty and interest imposed for the late filing of a return or the late payment of tax deducted and withheld.

(F) If a video lottery sales agent ceases to operate video lottery terminals, the amounts deducted and withheld along with any penalties and interest thereon are immediately due and payable. The successor of the video lottery sales agent that purchases the video lottery terminals from the agent shall withhold an amount from the purchase money that is sufficient to cover the amounts deducted and withheld and any penalties and interest thereon until the predecessor video lottery sales agent operator produces either of the following:

- (1) A receipt from the Tax Administrator showing that the amounts deducted and withheld, and penalties and interest thereon have been paid;
- (2) A certificate from the Tax Administrator indicating that no amounts are due.

If the successor fails to withhold purchase money, the successor is personally liable for the payment of the amounts deducted and withheld and penalties and interest thereon.

(G) The failure of a video lottery sales agent to deduct and withhold the required amount from a person's prize award does not relieve that person from liability for the municipal income tax with respect to that prize award.

(H) If a casino operator or lottery sales agent files a return late, fails to file a return, remits amounts deducted and withheld late, or fails to remit amounts deducted and withheld as required under this section, the Tax Administrator of a municipal corporation may impose the following applicable penalty:

(1) For the late remittance of, or failure to remit, tax deducted and withheld under this section, a penalty equal to fifty percent of the tax deducted and withheld;

(2) For the failure to file, or the late filing of, a monthly or annual return, a penalty of five hundred dollars for each return not filed or filed late. Interest shall accrue on past due amounts deducted and withheld at the rate prescribed in R.C. 5703.47.

(I) Amounts deducted and withheld on behalf of a municipal corporation shall be allowed as a credit against payment of the tax imposed by the municipal corporation and shall be treated as taxes paid for purposes of section 39.07 of this chapter. This division applies only to the person for whom the amount is deducted and withheld.

(J) The Tax Administrator shall prescribe the forms of the receipts and returns required under this section.

39.06 INCOME SUBJECT TO NET PROFIT TAX.

39.061 DETERMINING MUNICIPAL TAXABLE INCOME FOR TAXPAYERS WHO ARE NOT INDIVIDUALS.

"Municipal Taxable Income" for a taxpayer who is not an individual for the municipality is calculated as follows:

(A) "Income" reduced by "Exempt Income" to the extent otherwise included in income, multiplied by apportionment equals "Municipal Taxable Income".

(1) "Income" for a taxpayer that is not an individual means the "Net Profit" of the taxpayer.

(i) "Net Profit" for a person other than an individual is defined in section 39.03(23) of this chapter.

(ii) "Adjusted Federal Taxable Income" is defined in section 39.03(1) of this chapter.

(2) "Exempt Income" is defined in section 39.03(11) of this chapter.

(3) "Apportionment" means the apportionment as determined by section 39.062 of this chapter.

39.062 NET PROFIT; INCOME SUBJECT TO NET PROFIT TAX; ALTERNATIVE APPORTIONMENT.

This section applies to any taxpayer engaged in a business or profession in the municipality unless the taxpayer is an individual who resides in the municipality or the taxpayer is an electric company, combined company, or telephone company that is subject to and required to file reports under Chapter 5745 of the Ohio Revised Code.

(A) Net profit from a business or profession conducted both within and without the boundaries of the municipality shall be considered as having a taxable situs in the municipality for purposes of municipal income taxation in the same proportion as the average ratio of the following:

(1) The average original cost of the real property and tangible personal property owned or used by the taxpayer in the business or profession in the municipality during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.

As used in the preceding paragraph, tangible personal or real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight;

(2) Wages, salaries, and other compensation paid during the taxable period to individuals employed in the business or profession for services performed in the municipality to wages, salaries, and other compensation paid during the same period to individuals employed in the business or profession, wherever the individual's services are performed, excluding compensation from which taxes are not required to be withheld under section 39.052 of this chapter;

(3) Total gross receipts of the business or profession from sales and rentals made and services performed during the taxable period in the municipality to total gross receipts of the business or profession during the same period from sales, rentals, and services, wherever made or performed.

(B) (1) If the apportionment factors described in division (A) of this section do not fairly represent the extent of a taxpayer's business activity in the municipality, the taxpayer may request, or the Tax Administrator of the municipality may require, that the taxpayer use, with respect to all or any portion of the income of the taxpayer, an alternative apportionment method involving one or more of the following:

- (a) Separate accounting;
- (b) The exclusion of one or more of the factors;
- (c) The inclusion of one or more additional factors that would provide for a fairer apportionment of the income of the taxpayer to the municipality;
- (d) A modification of one or more of the factors.

(2) A taxpayer request to use an alternative apportionment method shall be in writing and shall accompany a tax return, timely filed appeal of an assessment, or timely filed amended tax return. The taxpayer may use the requested alternative method unless the Tax Administrator denies the request in an assessment issued within the period prescribed by division (A) of section 39.19 of this chapter.

(3) A Tax Administrator may require a taxpayer to use an alternative apportionment method as described in division (B)(1) of this section only by issuing an assessment to the taxpayer within the period prescribed by division (A) of section 39.19 of this chapter.

(4) Nothing in division (B) of this section nullifies or otherwise affects any alternative apportionment arrangement approved by a Tax Administrator or otherwise agreed upon by both the Tax Administrator and taxpayer before January 1, 2016.

(C) As used in division (A)(2) of this section, "wages, salaries, and other compensation" includes only wages, salaries, or other compensation paid to an employee for services performed at any of the following locations:

(1) A location that is owned, controlled, or used by, rented to, or under the possession of one of the following:

- (a) The employer;
- (b) A vendor, customer, client, or patient of the employer, or a related member of such a vendor, customer, client, or patient;
- (c) A vendor, customer, client, or patient of a person described in division (C)(1)(b) of this section, or a related member of such a vendor, customer, client, or patient.

(2) Any location at which a trial, appeal, hearing, investigation, inquiry, review, court-martial, or similar administrative, judicial, or legislative matter or proceeding is being conducted, provided that the compensation is paid for services performed for, or on behalf of, the employer or that the employee's presence at the location directly or indirectly benefits the employer;

(3) Any other location, if the Tax Administrator determines that the employer directed the employee to perform the services at the other location in lieu of a location described in division (C)(1) or (2) of this section solely in order to avoid or reduce the employer's municipal income tax liability. If a Tax Administrator makes such a determination, the employer may dispute the determination by establishing, by a preponderance of the evidence, that the Tax Administrator's determination was unreasonable.

(D) For the purposes of division (A)(3) of this section, receipts from sales and rentals made and services performed shall be situated to a municipal corporation as follows:

(1) Gross receipts from the sale of tangible personal property shall be situated to the municipal corporation in which the sale originated. For the purposes of this division, a sale of property originates in a municipal corporation if, regardless of where title passes, the property meets any of the following criteria:

- (a) The property is shipped to or delivered within the municipal corporation from a stock of goods located within the municipal corporation.
- (b) The property is delivered within the municipal corporation from a location outside the municipal corporation, provided the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within such municipal corporation and the sales result from such solicitation or promotion.

(c) The property is shipped from a place within the municipal corporation to purchasers outside the municipal corporation, provided that the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

(2) Gross receipts from the sale of services shall be situated to the municipal corporation to the extent that such services are performed in the municipal corporation.

(3) To the extent included in income, gross receipts from the sale of real property located in the municipal corporation shall be situated to the municipal corporation.

(4) To the extent included in income, gross receipts from rents and royalties from real property located in the municipal corporation shall be situated to the municipal corporation.

(5) Gross receipts from rents and royalties from tangible personal property shall be situated to the municipal corporation based upon the extent to which the tangible personal property is used in the municipal corporation.

(E) The net profit received by an individual taxpayer from the rental of real estate owned directly by the individual or by a disregarded entity owned by the individual shall be subject to tax only by the municipal corporation in which the property generating the net profit is located and the municipal corporation in which the individual taxpayer that receives the net profit resides. A municipal corporation shall allow such taxpayers to elect to use separate accounting for the purpose of calculating net profit situated under this division to the municipal corporation in which the property is located.

(F) (1) Except as provided in division (F)(2) of this section, commissions received by a real estate agent or broker relating to the sale, purchase, or lease of real estate shall be situated to the municipal corporation in which the real estate is located. Net profit reported by the real estate agent or broker shall be allocated to a municipal corporation based upon the ratio of the commissions the agent or broker received from the sale, purchase, or lease of real estate located in the municipal corporation to the commissions received from the sale, purchase, or lease of real estate everywhere in the taxable year.

(2) An individual who is a resident of a municipal corporation that imposes a municipal income tax shall report the individual's net profit from all real estate activity on the individual's annual tax return for that municipal corporation. The individual may claim a credit for taxes the individual paid on such net profit to another municipal corporation to the extent that such credit is allowed under section 39.081 of this chapter.

(G) If, in computing a taxpayer's adjusted federal taxable income, the taxpayer deducted any amount with respect to a stock option granted to an employee, and if the employee is not required to include in the employee's income any such amount or a portion thereof because it is exempted from taxation under divisions (11)(L) and (34)(A)(iv) of section 39.03 of this chapter, by a municipal corporation to which the taxpayer has apportioned a portion of its net profit, the taxpayer shall add the amount that is exempt from taxation to the taxpayer's net profit that was apportioned

to that municipal corporation. In no case shall a taxpayer be required to add to its net profit that was apportioned to that municipal corporation any amount other than the amount upon which the employee would be required to pay tax were the amount related to the stock option not exempted from taxation.

This division applies solely for the purpose of making an adjustment to the amount of a taxpayer's net profit that was apportioned to a municipal corporation under this section.

(H) When calculating the ratios described in division (A) of this section for the purposes of that division or division (B) of this section, the owner of a disregarded entity shall include in the owner's ratios the property, payroll, and gross receipts of such disregarded entity.

39.063 CONSOLIDATED FEDERAL INCOME TAX RETURN.

(A) As used in this section:

(1) "Affiliated group of corporations" means an affiliated group as defined in section 1504 of the Internal Revenue Code, except that, if such a group includes at least one incumbent local exchange carrier that is primarily engaged in the business of providing local exchange telephone service in this state, the affiliated group shall not include any incumbent local exchange carrier that would otherwise be included in the group.

(2) "Consolidated federal income tax return" means a consolidated return filed for federal income tax purposes pursuant to section 1501 of the Internal Revenue Code.

(3) "Consolidated federal taxable income" means the consolidated taxable income of an affiliated group of corporations, as computed for the purposes of filing a consolidated federal income tax return, before consideration of net operating losses or special deductions. "Consolidated federal taxable income" does not include income or loss of an incumbent local exchange carrier that is excluded from the affiliated group under division (A)(1) of this section.

(4) "Incumbent local exchange carrier" has the same meaning as in R.C. 4927.01.

(5) "Local exchange telephone service" has the same meaning as in R.C. 5727.01.

(B) (1) For taxable years beginning on or after January 1, 2016, a taxpayer that is a member of an affiliated group of corporations may elect to file a consolidated municipal income tax return for a taxable year if at least one member of the affiliated group of corporations is subject to the municipal income tax in that taxable year and if the affiliated group of corporations filed a consolidated federal income tax return with respect to that taxable year.

(a) The election is binding for a five-year period beginning with the first taxable year of the initial election unless a change in the reporting method is required under federal law;

(b) The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing consolidated municipal income tax returns under division (B)(2) of this section; or

(c) A taxpayer receives permission from the Tax Administrator. The Tax Administrator shall approve such a request for good cause shown.

(2) An election to discontinue filing consolidated municipal income tax returns under this section must be made in the first year following the last year of a five-year consolidated municipal income tax return election period in effect under division (B)(1) of this section. The election to discontinue filing a consolidated municipal income tax return is binding for a five-year period beginning with the first taxable year of the election.

(3) An election made under division (B)(1) or (2) of this section is binding on all members of the affiliated group of corporations subject to a municipal income tax.

(C) A taxpayer that is a member of an affiliated group of corporations that filed a consolidated federal income tax return for a taxable year shall file a consolidated municipal income tax return for that taxable year if the Tax Administrator determines, by a preponderance of the evidence, that intercompany transactions have not been conducted at arm's length and that there has been a distortive shifting of income or expenses with regard to allocation of net profits to the municipal corporation. A taxpayer that is required to file a consolidated municipal income tax return for a taxable year shall file a consolidated municipal income tax return for all subsequent taxable years unless the taxpayer requests and receives written permission from the Tax Administrator to file a separate return or a taxpayer has experienced a change in circumstances.

(D) A taxpayer shall prepare a consolidated municipal income tax return in the same manner as is required under the United States Department of Treasury regulations that prescribe procedures for the preparation of the consolidated federal income tax return required to be filed by the common parent of the affiliated group of which the taxpayer is a member.

(E) (1) Except as otherwise provided in divisions (E)(2), (3), and (4) of this section, corporations that file a consolidated municipal income tax return shall compute adjusted federal taxable income, as defined in section 39.03(1) of this chapter, by substituting "consolidated federal taxable income" for "federal taxable income" wherever "federal taxable income" appears in that division and by substituting "an affiliated group of corporation's" for "a C corporation's" wherever "a C corporation's" appears in that division.

(2) No corporation filing a consolidated municipal income tax return shall make any adjustment otherwise required under division (1) of 39.03 of this chapter to the extent that the item of income or deduction otherwise subject to the adjustment has been eliminated or consolidated in the computation of consolidated federal taxable income.

(3) If the net profit or loss of a pass-through entity having at least eighty percent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable

year, the corporation filing a consolidated municipal income tax return shall do one of the following with respect to that pass-through entity's net profit or loss for that taxable year:

(a) Exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in section 39.062 of this chapter, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation. If the entity's net profit or loss is so excluded, the entity shall be subject to taxation as a separate taxpayer on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.

(b) Include the pass-through entity's net profit or loss in the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in section 39.062 of this chapter, include the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation. If the entity's net profit or loss is so included, the entity shall not be subject to taxation as a separate taxpayer on the basis of the entity's net profits that are included in the consolidated federal taxable income of the affiliated group.

(4) If the net profit or loss of a pass-through entity having less than eighty percent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, all of the following shall apply:

(a) The corporation filing the consolidated municipal income tax return shall exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purposes of making the computations required in section 39.062 of this chapter, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation;

(b) The pass-through entity shall be subject to municipal income taxation as a separate taxpayer in accordance with this chapter on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.

(F) Corporations filing a consolidated municipal income tax return shall make the computations required under section 39.062 of this chapter by substituting "consolidated federal taxable income attributable to" for "net profit from" wherever "net profit from" appears in that section and by substituting "affiliated group of corporations" for "taxpayer" wherever "taxpayer" appears in that section.

(G) Each corporation filing a consolidated municipal income tax return is jointly and severally liable for any tax, interest, penalties, fines, charges, or other amounts imposed by a municipal corporation in accordance with this chapter on the corporation, an affiliated group of which the corporation is a member for any portion of the taxable year, or any one or more members of such an affiliated group.

(H) Corporations and their affiliates that made an election or entered into an agreement with a municipal corporation before January 1, 2016, to file a consolidated or combined tax return with such municipal corporation may continue to file consolidated or combined tax returns in accordance with such election or agreement for taxable years beginning on and after January 1, 2016.

39.064 TAX CREDIT FOR BUSINESSES THAT FOSTER NEW JOBS IN OHIO.

The municipality, by ordinance, may grant a refundable or nonrefundable credit against its tax on income to a taxpayer to foster job creation in the municipality. If a credit is granted under this section, it shall be measured as a percentage of the new income tax revenue the municipality derives from new employees of the taxpayer and shall be for a term not exceeding fifteen years. Before the municipality passes an ordinance granting a credit, the municipality and the taxpayer shall enter into an agreement specifying all the conditions of the credit.

39.065 TAX CREDITS TO FOSTER JOB RETENTION.

The municipality, by ordinance, may grant a refundable or nonrefundable credit against its tax on income to a taxpayer for the purpose of fostering job retention in the municipality. If a credit is granted under this section, it shall be measured as a percentage of the income tax revenue the municipality derives from the retained employees of the taxpayer and shall be for a term not exceeding fifteen years. Before the municipality passes an ordinance allowing such a credit, the municipality and the taxpayer shall enter into an agreement specifying all the conditions of the credit.

39.07 DECLARATION OF ESTIMATED TAX.

(A) As used in this section:

(1) "Estimated taxes" means the amount that the taxpayer reasonably estimates to be the taxpayer's tax liability for a municipal corporation's income tax for the current taxable year.

(2) "Tax liability" means the total taxes due to a municipal corporation for the taxable year, after allowing any credit to which the taxpayer is entitled, and after applying any estimated tax payment, withholding payment, or credit from another taxable year.

(B) (1) Every taxpayer shall make a declaration of estimated taxes for the current taxable year, on the form prescribed by the Tax Administrator, if the amount payable as estimated taxes is at least two hundred dollars. For the purposes of this section:

(a) Taxes withheld from qualifying wages shall be considered as paid to the municipal corporation for which the taxes were withheld in equal amounts on each payment date. If the taxpayer establishes the dates on which all amounts were actually withheld, the amounts withheld shall be considered as paid on the dates on which the amounts were actually withheld.

(b) An overpayment of tax applied as a credit to a subsequent taxable year is deemed to be paid on the date of the postmark stamped on the cover in which the payment is mailed or, if the

payment is made by electronic funds transfer, the date the payment is submitted. As used in this division, "date of the postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.

(c) A taxpayer having a taxable year of less than twelve months shall make a declaration under rules prescribed by the Tax Administrator.

(d) Taxes withheld by a casino operator or by a lottery sales agent under R.C. 718.031 are deemed to be paid to the municipal corporation for which the taxes were withheld on the date the taxes are withheld from the taxpayer's winnings.

(2) Taxpayers filing joint returns shall file joint declarations of estimated taxes.

(3) The declaration of estimated taxes shall be filed on or before the date prescribed for the filing of municipal income tax returns under division (G) of section 39.091 of this chapter or on or before the fifteenth day of the fourth month of the first taxable year after the taxpayer becomes subject to tax for the first time.

(4) Taxpayers reporting on a fiscal year basis shall file a declaration on or before the fifteenth day of the fourth month after the beginning of each fiscal year or period.

(5) The original declaration or any subsequent amendment may be increased or decreased on or before any subsequent quarterly payment day as provided in this section.

(C) (1) The required portion of the tax liability for the taxable year that shall be paid through estimated taxes made payable to the municipality or Tax Administrator, including the application of tax refunds to estimated taxes and withholding on or before the applicable payment date, shall be as follows:

(a) On or before the fifteenth day of the fourth month after the beginning of the taxable year, twenty-two and one-half percent of the tax liability for the taxable year;

(b) On or before the fifteenth day of the sixth month after the beginning of the taxable year, forty-five percent of the tax liability for the taxable year;

(c) On or before the fifteenth day of the ninth month after the beginning of the taxable year, sixty-seven and one-half percent of the tax liability for the taxable year;

(d) For an individual, on or before the fifteenth day of the first month of the following, ninety percent of the tax liability for the taxable year. For a person other than an individual, on or before the fifteenth day of the twelfth month of the taxable year, ninety percent of the tax liability for the taxable year.

(2) A taxpayer may amend a declaration under rules prescribed by the Tax Administrator. When an amended declaration has been filed, the unpaid balance shown due on the amended declaration shall be paid in equal installments on or before the remaining payment

dates. The amended declaration must be filed on the next applicable due date as outlined in (C)(1)(a) through (d) of this section.

(3) On or before the fifteenth day of the fourth month of the year following that for which the declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due shall be paid with the return in accordance with section 39.091 of this chapter.

(a) For taxpayers who are individuals, or who are not individuals and are reporting and filing on a calendar year basis, the annual tax return is due on the same date as the filing of the federal tax return, unless extended pursuant to division (G) of R.C. 5747.08.

(b) For taxpayers who are not individuals and are reporting and filing on a fiscal year basis or any period other than a calendar year, the annual return is due on the fifteenth day of the fourth month following the end of the taxable year or period.

(4) An amended declaration is required whenever the taxpayer's estimated tax liability changes during the taxable year. A change in estimated tax liability may either increase or decrease the estimated tax liability for the taxable year.

(D) (1) In the case of any underpayment of any portion of a tax liability, penalty and interest may be imposed pursuant to section 39.10 of this chapter upon the amount of underpayment for the period of underpayment, unless the underpayment is due to reasonable cause as described in division (E) of this section. The amount of the underpayment shall be determined as follows:

(a) For the first payment of estimated taxes each year, twenty-two and one-half percent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;

(b) For the second payment of estimated taxes each year, forty-five percent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;

(c) For the third payment of estimated taxes each year, sixty-seven and one-half percent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;

(d) For the fourth payment of estimated taxes each year, ninety percent of the tax liability, less the amount of taxes paid by the date prescribed for that payment.

(2) The period of the underpayment shall run from the day the estimated payment was required to be made to the date on which the payment is made. For purposes of this section, a payment of estimated taxes on or before any payment date shall be considered a payment of any previous underpayment only to the extent the payment of estimated taxes exceeds the amount of the payment presently required to be paid to avoid any penalty.

(E) An underpayment of any portion of tax liability determined under division (D) of this section shall be due to reasonable cause and the penalty imposed by this section shall not be added to the taxes for the taxable year if any of the following apply:

(1) The amount of estimated taxes that were paid equals at least ninety percent of the tax liability for the current taxable year, determined by annualizing the income received during the year up to the end of the month immediately preceding the month in which the payment is due.

(2) The amount of estimated taxes that were paid equals at least one hundred percent of the tax liability shown on the return of the taxpayer for the preceding taxable year, provided that the immediately preceding taxable year reflected a period of twelve (12) months and the taxpayer filed a return with the municipal corporation under section 39.091 of this chapter for that year.

(3) The taxpayer is an individual who resides in the municipality but was not domiciled there on the first day of January of the calendar year that includes the first day of the taxable year.

(F) A Tax Administrator may waive the requirement for filing a declaration of estimated taxes for any class of taxpayers after finding that the waiver is reasonable and proper in view of administrative costs and other factors.

39.08 CREDIT FOR TAX PAID.

39.081 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

(A) If a resident of the municipality is subject to a municipal income tax in another municipality as well as in the City of Beavercreek, he shall not pay a total municipal income tax (on the same income) greater than the tax imposed at the highest rate to which he is subject.

(B) Every individual who resides in the municipality who receives net profits, qualifying wages, commissions or other taxable income for work done or services performed or rendered outside the City of Beavercreek, and who is liable and has paid to another municipality an income tax on the same income taxable and taxed under this chapter, shall be allowed a credit against the tax imposed by this chapter (on the same income to the extent such income is taxed under this chapter) of the amount so paid by him or on his behalf to such other municipality. The credit shall not exceed the Beavercreek tax imposed on the income earned in the other municipality(ies) where such tax is paid. The amount of income reported on federal Schedules C, E, and F, earned in and taxed by a given municipality (as a percentage of total income reported on federal Schedules C, E, and F, attributable to taxing and non-taxing jurisdictions) shall be used to determine each municipality's contribution to the City of Beavercreek's net profits taxable income, prior to calculation of the resident City credit for taxes paid to other municipalities on net profit income. The rate to be used for calculation of this credit shall be the lesser of the resident City tax rate or the appropriate rate at which such income was taxed by such other municipality. The resident City credit(s) for taxes paid to another municipality(ies) on net profit income shall be calculated as follows:

Beavercreek net profits taxable income (\$) X municipality contribution (%) X tax rate (%) = allowable credit.

(C) The income tax credit which may equal to but not exceed one hundred percent of the tax owed by the taxpayer as set forth in this section, shall not be changed without first obtaining the approval of the change by a majority of the electors of the City at a general election.

39.082 REFUNDABLE CREDIT FOR QUALIFYING LOSS.

(A) As used in this section:

(1) "Nonqualified deferred compensation plan" means a compensation plan described in section 3121(v)(2)(C) of the Internal Revenue Code.

(2) (a) Except as provided in division (A)(2)(b) of this section, "qualifying loss" means the excess, if any, of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan over the total amount of income the taxpayer has recognized for federal income tax purposes for all taxable years on a cumulative basis as compensation with respect to the taxpayer's receipt of money and property attributable to distributions in connection with the nonqualified deferred compensation plan.

(b) If, for one or more taxable years, the taxpayer has not paid to one or more municipal corporations income tax imposed on the entire amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan, then the "qualifying loss" is the product of the amount resulting from the calculation described in division (A)(2)(a) of this section computed without regard to division (A)(2)(b) of this section and a fraction the numerator of which is the portion of such compensation on which the taxpayer has paid income tax to one or more municipal corporations and the denominator of which is the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan.

(c) With respect to a nonqualified deferred compensation plan, the taxpayer sustains a qualifying loss only in the taxable year in which the taxpayer receives the final distribution of money and property pursuant to that nonqualified deferred compensation plan.

(3) "Qualifying tax rate" means the applicable tax rate for the taxable year for the which the taxpayer paid income tax to a municipal corporation with respect to any portion of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan. If different tax rates applied for different taxable years, then the "qualifying tax rate" is a weighted average of those different tax rates. The weighted average shall be based upon the tax paid to the municipal corporation each year with respect to the nonqualified deferred compensation plan.

(B) (1) Except as provided in division (D) of this section, a refundable credit shall be allowed against the income tax imposed by a municipal corporation for each qualifying loss sustained by a taxpayer during the taxable year. The amount of the credit shall be equal to the product of the qualifying loss and the qualifying tax rate.

(2) A taxpayer shall claim the credit allowed under this section from each municipal corporation to which the taxpayer paid municipal income tax with respect to the nonqualified deferred compensation plan in one or more taxable years.

(3) If a taxpayer has paid tax to more than one municipal corporation with respect to the nonqualified deferred compensation plan, the amount of the credit that a taxpayer may claim from each municipal corporation shall be calculated on the basis of each municipal corporation's proportionate share of the total municipal corporation income tax paid by the taxpayer to all municipal corporations with respect to the nonqualified deferred compensation plan.

(4) In no case shall the amount of the credit allowed under this section exceed the cumulative income tax that a taxpayer has paid to a municipal corporation for all taxable years with respect to the nonqualified deferred compensation plan.

(C) (1) For purposes of this section, municipal corporation income tax that has been withheld with respect to a nonqualified deferred compensation plan shall be considered to have been paid by the taxpayer with respect to the nonqualified deferred compensation plan.

(2) Any municipal income tax that has been refunded or otherwise credited for the benefit of the taxpayer with respect to a nonqualified deferred compensation plan shall not be considered to have been paid to the municipal corporation by the taxpayer.

(D) The credit allowed under this section is allowed only to the extent the taxpayer's qualifying loss is attributable to:

(1) The insolvency or bankruptcy of the employer who had established the nonqualified deferred compensation plan; or

(2) The employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified deferred compensation.

39.083 CREDIT FOR PERSON WORKING IN JOINT ECONOMIC DEVELOPMENT DISTRICT OR ZONE.

The municipality shall grant a credit against its tax on income to a resident of the municipality who works in a joint economic development zone created under R.C. 715.691 or a joint economic development district created under R.C. 715.70, 715.71, or 715.72 to the same extent that it grants a credit against its tax on income to its residents who are employed in another municipal corporation, pursuant to section 39.081 of this chapter.

39.084 CREDIT FOR TAX BEYOND STATUTE FOR OBTAINING REFUND.

(A) Income tax that has been deposited or paid to the municipality, but should have been deposited or paid to another municipal corporation, is allowable by the municipality as a refund, but is subject to the three-year limitation on refunds as provided in section 39.096 of this chapter.

(B) Income tax that should have been deposited or paid to the municipality, but was deposited or paid to another municipal corporation, shall be subject to collection and recovery by the municipality. To the extent a refund of such tax or withholding is barred by the limitation on refunds as provided in section 39.096, the municipality will allow a non-refundable credit equal to the tax or withholding paid to the other municipality against the income tax the municipality claims is due. If the municipality's tax rate is higher, the tax representing the net difference of the tax rates is also subject to collection by the municipality, along with any penalty and interest accruing during the period of nonpayment.

(C) No carryforward of credit will be permitted when the overpayment is beyond the three-year limitation for refunding of same as provided in section 39.096 of this chapter.

(D) Nothing in this section requires the municipality to allow credit for tax paid to another municipal corporation if the municipality has reduced credit for tax paid to another municipal corporation. Section 39.081 of this chapter regarding any limitation on credit shall prevail.

39.09 ANNUAL RETURN.

39.091 RETURN AND PAYMENT OF TAX.

(A) (1) An annual return with respect to the income tax levied on municipal taxable income by the municipality shall be completed and filed by every taxpayer for any taxable year for which the taxpayer is subject to the tax, regardless of whether or not income tax is due.

(2) The Tax Administrator shall accept on behalf of all nonresident individual taxpayers a return filed by an employer, agent of an employer, or other payer located in the municipality under subsection 39.051(C) of this chapter when the nonresident individual taxpayer's sole income subject to the tax is the qualifying wages reported by the employer, agent of an employer, or other payer, and no additional tax is due to the municipality.

(3) All resident individual taxpayers shall file an annual municipal income tax return with the municipality, regardless of income or liability.

(B) If an individual is deceased, any return or notice required of that individual shall be completed and filed by that decedent's executor, administrator, or other person charged with the property of that decedent.

(C) If an individual is unable to complete and file a return or notice required by the municipality in accordance with this chapter, the return or notice required of that individual shall be completed and filed by the individual's duly authorized agent, guardian, conservator, fiduciary, or other person charged with the care of the person or property of that individual. Such duly authorized agent, guardian, conservator, fiduciary, or other person charged with the care of the person or property of that individual shall provide, with the filing of the return, appropriate documentation to support that they are authorized to file a return or notice on behalf of the taxpayer. This notice shall include any legally binding authorizations, and contact information including name, address, and phone number of the duly authorized agent, guardian, conservator, fiduciary, or other person.

(D) Returns or notices required of an estate or a trust shall be completed and filed by the fiduciary of the estate or trust. Such fiduciary shall provide, with the filing of the return, appropriate documentation to support that they are authorized to file a return or notice on behalf of the taxpayer. This notice shall include any legally binding authorizations, and contact information including name, address, and phone number of the fiduciary.

(E) No municipal corporation shall deny spouses the ability to file a joint return.

(F) (1) Each return required to be filed under this section shall contain the signature of the taxpayer or the taxpayer's duly authorized agent and of the person who prepared the return for the taxpayer and shall include the taxpayer's social security number or taxpayer identification number. Each return shall be verified by a declaration under penalty of perjury.

(2) A taxpayer who is an individual is required to include, with each annual return, amended return, or request for refund required under this section, copies of only the following documents: all of the taxpayer's Internal Revenue Service Form W-2, "Wage and Tax Statements," including all information reported on the taxpayer's federal W-2, as well as taxable wages reported or withheld for any municipal corporation; the taxpayer's Internal Revenue Service Form 1040 or, in the case of a return or request required by a qualified municipal corporation, Ohio IT 1040; and, with respect to an amended tax return or refund request, any other documentation necessary to support the refund request or the adjustments made in the amended return. An individual taxpayer who files the annual return required by this section electronically is not required to provide paper copies of any of the foregoing to the Tax Administrator unless the Tax Administrator requests such copies after the return has been filed.

(3) A taxpayer that is not an individual is required to include, with each annual net profit return, amended net profit return, or request for refund required under this section, copies of only the following documents: the taxpayer's Internal Revenue Service Form 1041, Form 1065, Form 1120, Form 1120-REIT, Form 1120F, or Form 1120S, and, with respect to an amended tax return or refund request, any other documentation necessary to support the refund request or the adjustments made in the amended return.

(4) A taxpayer that is not an individual and that files an annual net profit return electronically through the Ohio Business Gateway or in some other manner shall either mail the documents required under this division to the Tax Administrator at the time of filing or, if electronic submission is available, submit the documents electronically through the Ohio Business Gateway or a portal provided by the municipality. The Department of Taxation shall publish a method of electronically submitting the documents required under this division through the Ohio Business Gateway on or before January 1, 2016. The Department of Taxation shall transmit all documents submitted electronically under this division to the appropriate Tax Administrator.

(5) After a taxpayer files a tax return, the Tax Administrator shall request, and the taxpayer shall provide, any information, statements, or documents required by the municipality to determine and verify the taxpayer's municipal income tax liability. The requirements imposed under division

(F) of this section apply regardless of whether the taxpayer files on a generic form or on a form prescribed by the Tax Administrator.

(6) Any other documentation, including schedules, other municipal income tax returns, or other supporting documentation necessary to verify credits, income, losses, or other pertinent factors on the return shall also be included to avoid delay in processing, or disallowance by the Tax Administrator of undocumented credits or losses.

(G) (1) (a) Except as otherwise provided in this chapter, each individual income tax return required to be filed under this section shall be completed and filed as required by the Tax Administrator on or before the date prescribed for the filing of state individual income tax returns under division (G) of R.C. 5747.08. The taxpayer shall complete and file the return or notice on forms prescribed by the Tax Administrator or on generic forms, together with remittance made payable to the municipality or Tax Administrator.

(b) Except as otherwise provided in this chapter, each annual net profit income tax return required to be filed under this section by a taxpayer that is not an individual shall be completed and filed as required by the Tax Administrator on or before the fifteenth day of the fourth month following the end of the taxpayer's taxable year or period. The taxpayer shall complete and file the return or notice on forms prescribed by the Tax Administrator or on generic forms, together with remittance made payable to the municipality or Tax Administrator.

(c) In the case of individual income tax return required to be filed by an individual, and net profit income tax return required to be filed by a taxpayer who is not an individual, no remittance is required if the amount shown to be due is ten dollars or less.

(2) If the Tax Administrator considers it necessary in order to ensure the payment of the tax imposed by the municipality in accordance with this chapter, the Tax Administrator may require taxpayers to file returns and make payments otherwise than as provided in this section, including taxpayers not otherwise required to file annual returns.

(3) With respect to taxpayers to whom section 39.092 of this chapter applies, to the extent that any provision in this division conflicts with any provision in section 39.092 of this chapter, the provision in section 39.092 of this chapter prevails.

(H) (1) For taxable years beginning after 2015, the municipality shall not require a taxpayer to remit tax with respect to net profits if the amount due is ten dollars or less.

(2) Any taxpayer not required to remit tax to the municipality for a taxable year pursuant to division (H)(1) of this section shall file with the municipality an annual net profit return under division (F)(3) and (4) of this section

(I) (1) If any report, claim, statement, or other document required to be filed, or any payment required to be made, within a prescribed period or on or before a prescribed date under this chapter is delivered after that period or that to the Tax Administrator or other municipal official with which the report, claim, statement, or other document is required to be filed, or to which the payment is

required to be made, the date of the postmark stamped on the cover in which the report, claim, statement, or other document, or payment is mailed shall be deemed to be the date of delivery or the date of payment. "The date of postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.

(2) If a payment under this chapter is made by electronic funds transfer, the payment shall be considered to be made on the date of the time stamp assigned by the first electronic system receiving that payment.

(J) The amounts withheld for the municipality by an employer, the agent of an employer, or other payer as described in section 39.051 of this chapter shall be allowed to the recipient of the compensation as credits against payment of the tax imposed on the recipient unless the amounts withheld were not remitted to the municipality and the recipient colluded with the employer, agent, or other payer in connection with the failure to remit the amounts withheld.

(K) Each return required by the municipality to be filed in accordance with this section shall include a box that the taxpayer may check to authorize another person, including a tax return preparer who prepared the return, to communicate with the Tax Administrator about matters pertaining to the return. The return or instructions accompanying the return shall indicate that by checking the box the taxpayer authorizes the Tax Administrator to contact the preparer or other person concerning questions that arise during the examination or other review of the return and authorizes the preparer or other person only to provide the Tax Administrator with information that is missing from the return, to contact the Tax Administrator for information about the examination or other review of the return or the status of the taxpayer's refund or payments, and to respond to notices about mathematical errors, offsets, or return preparation that the taxpayer has received from the Tax Administrator and has shown to the preparer or other person. Authorization by the taxpayer of another person to communicate with the Tax Administrator about matters pertaining to the return does not preclude the Tax Administrator from contacting the taxpayer regarding such matters.

(L) The Tax Administrator of the municipality shall accept for filing a generic form of any income tax return, report, or document required by the municipality in accordance with this chapter, provided that the generic form, once completed and filed, contains all of the information required by ordinances, resolutions, or rules adopted by the Municipality or Tax Administrator, and provided that the taxpayer or tax return preparer filing the generic form otherwise complies with the provisions of this chapter and of the municipality's ordinance or resolution governing the filing of returns, reports, or documents.

(M) When income tax returns, reports, or other documents require the signature of a tax return preparer, the Tax Administrator shall accept a facsimile of such a signature in lieu of a manual signature.

(N) (1) As used in this division, "worksite location" has the same meaning as in section 39.052 of this chapter.

(2) A person may notify a Tax Administrator that the person does not expect to be a taxpayer with respect to the municipal corporation for a taxable year if both of the following conditions apply:

(a) The person was required to file a tax return with the municipal corporation for the immediately preceding taxable year because the person performed services at a worksite location within the municipal corporation, and the person has filed all appropriate and required returns and remitted all applicable income tax and withholding payments as provided by this chapter. The Tax Administrator is not required to accept an affidavit from a taxpayer who has not complied with the provisions of this chapter.

(b) The person no longer provides services in the municipal corporation and does not expect to be subject to the municipal corporation's income tax for the taxable year.

The person shall provide the notice in a signed affidavit that briefly explains the person's circumstances, including the location of the previous worksite location and the last date on which the person performed services or made any sales within the municipal corporation. The affidavit also shall include the following statement: "The affiant has no plans to perform any services within the municipal corporation, make any sales in the municipal corporation, or otherwise become subject to the tax levied by the municipal corporation during the taxable year. If the affiant does become subject to the tax levied by the municipal corporation for the taxable year, the affiant agrees to be considered a taxpayer and to properly register as a taxpayer with the municipal corporation, if such a registration is required by the municipal corporation's resolutions, ordinances, or rules." The person shall sign the affidavit under penalty of perjury.

(c) If a person submits an affidavit described in division (N)(2) of this section, the Tax Administrator shall not require the person to file any tax return for the taxable year unless the Tax Administrator possesses information that conflicts with the affidavit or if the circumstances described in the affidavit change, or the taxpayer has engaged in activity which results in work being performed, services provided, sales made, or other activity that results in municipal taxable income reportable to the municipality in the taxable year. It shall be the responsibility of the taxpayer to comply with the provisions of this chapter relating to the reporting and filing of municipal taxable income on an annual municipal income tax return, even if an affidavit has been filed with the Tax Administrator for the taxable year. Nothing in division (N) of this section prohibits the Tax Administrator from performing an audit of the person.

39.092 RETURN AND PAYMENT OF TAX; INDIVIDUALS SERVING IN COMBAT ZONE.

(A) Each member of the national guard of any state and each member of a reserve component of the armed forces of the United States called to active duty pursuant to an executive order issued by the President of the United States or an act of the Congress of the United States, and each civilian serving as support personnel in a combat zone or contingency operation in support of the armed forces, may apply to the Tax Administrator of the municipality for both an extension of time for filing of the return and an extension of time for payment of taxes required by the municipality in accordance with this chapter during the period of the member's or civilian's duty

service and for one hundred eighty days thereafter. The application shall be filed on or before the one hundred eightieth day after the member's or civilian's duty terminates. An applicant shall provide such evidence as the Tax Administrator considers necessary to demonstrate eligibility for the extension.

(B) (1) If the Tax Administrator ascertains that an applicant is qualified for an extension under this section, the Tax Administrator shall enter into a contract with the applicant for the payment of the tax in installments that begin on the one hundred eighty-first day after the applicant's active duty or service terminates. Except as provided in division (B)(3) of this section, the Tax Administrator may prescribe such contract terms as the Tax Administrator considers appropriate.

(2) If the Tax Administrator ascertains that an applicant is qualified for an extension under this section, the applicant shall neither be required to file any return, report, or other tax document nor be required to pay any tax otherwise due to the municipality before the one hundred eighty-first day after the applicant's active duty or service terminates.

(3) Taxes paid pursuant to a contract entered into under division (B)(1) of this section are not delinquent. The Tax Administrator shall not require any payments of penalties or interest in connection with those taxes for the extension period.

(C) (1) Nothing in this division denies to any person described in this division the application of divisions (A) and (B) of this section.

(2) (a) A qualifying taxpayer who is eligible for an extension under the Internal Revenue Code shall receive both an extension of time in which to file any return, report, or other tax document and an extension of time in which to make any payment of taxes required by the municipality in accordance with this chapter. The length of any extension granted under division (C)(2)(a) of this section shall be equal to the length of the corresponding extension that the taxpayer receives under the Internal Revenue Code. As used in this section, "qualifying taxpayer" means a member of the national guard or a member of a reserve component of the armed forces of the United States called to active duty pursuant to either an executive order issued by the President of the United States or an act of the Congress of the United States, or a civilian serving as support personnel in a combat zone or contingency operation in support of the armed forces.

(b) Taxes the payment of which is extended in accordance with division (C)(2)(a) of this section are not delinquent during the extension period. Such taxes become delinquent on the first day after the expiration of the extension period if the taxes are not paid prior to that date. The Tax Administrator shall not require any payment of penalties or interest in connection with those taxes for the extension period. The Tax Administrator shall not include any period of extension granted under division (C)(2)(a) of this section in calculating the penalty or interest due on any unpaid tax.

(D) For each taxable year to which division (A), (B), or (C) of this section applies to a taxpayer, the provisions of divisions (B)(2) and (3) or (C) of this section, as applicable, apply to the spouse of that taxpayer if the filing status of the spouse and the taxpayer is married filing jointly for that year.

39.093 USE OF OHIO BUSINESS GATEWAY; TYPES OF FILINGS AUTHORIZED.

(A) Any taxpayer subject to municipal income taxation with respect to the taxpayer's net profit from a business or profession may file any municipal income tax return or, estimated municipal income tax return, or extension for filing a municipal income tax return, and may make payment of amounts shown to be due on such returns, by using the Ohio Business Gateway.

(B) Any employer, agent of an employer, or other payer may report the amount of municipal income tax withheld from qualifying wages, and may make remittance of such amounts, by using the Ohio Business Gateway.

(C) Nothing in this section affects the due dates for filing employer withholding tax returns or deposit of any required tax.

(D) The use of the Ohio Business Gateway by municipal corporations, taxpayers, or other persons does not affect the legal rights of municipalities or taxpayers as otherwise permitted by law. The State of Ohio shall not be a party to the administration of municipal income taxes or to an appeal of a municipal income tax matter, except as otherwise specifically provided by law.

(E) Nothing in this section shall be construed as limiting or removing the authority of any municipal corporation to administer, audit, and enforce the provisions of its municipal income tax.

39.094 EXTENSION OF TIME TO FILE.

(A) Any taxpayer that has duly requested an automatic six-month extension for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the fifteenth day of the tenth month after the last day of the taxable year to which the return relates.

(B) Any taxpayer that qualifies for an automatic federal extension of time for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the same as that of the extended federal income tax return.

(C) A taxpayer that has not requested or received a six-month extension for filing the taxpayer's federal income tax return may request that the Tax Administrator grant the taxpayer a six-month extension of the date for filing the taxpayer's municipal income tax return. If the request is received by the Tax Administrator on or before the date the municipal income tax return is due, the Tax Administrator shall grant the taxpayer's requested extension.

(D) An extension of time to file under this chapter is not an extension of the time to pay any tax due unless the Tax Administrator grants an extension of that date.

(E) If the State Tax Commissioner extends for all taxpayers the date for filing state income tax returns under division (G) of R.C. 5747.08, a taxpayer shall automatically receive an extension

for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the same as the extended due date of the state income tax return.

39.095 AMENDED RETURNS.

(A) (1) A taxpayer shall file an amended return with the Tax Administrator in such form as the Tax Administrator requires if any of the facts, figures, computations, or attachments required in the taxpayer's annual return to determine the tax due levied by the municipality in accordance with this chapter must be altered.

(2) Within sixty (60) days after the final determination of any federal or state tax liability affecting the taxpayer's municipal tax liability, that taxpayer shall make and file an amended municipal return showing income subject to the municipal income tax based upon such final determination of federal or state tax liability, and pay any additional municipal income tax shown due thereon or make a claim for refund of any overpayment, unless the tax or overpayment is ten dollars or less.

(3) If a taxpayer intends to file an amended consolidated municipal income tax return, or to amend its type of return from a separate return to a consolidated return, based on the taxpayer's consolidated federal income tax return, the taxpayer shall notify the Tax Administrator before filing the amended return.

(B) (1) In the case of an underpayment, the amended return shall be accompanied by payment of any combined additional tax due together with any penalty and interest thereon. If the combined tax shown to be due is ten dollars or less, such amount need not accompany the amended return. Except as provided under division (B)(2) of this section, the amended return shall not reopen those facts, figures, computations, or attachments from a previously filed return that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return unless the applicable statute of limitations for civil actions or prosecutions under section 39.19 of this chapter has not expired for a previously filed return.

(2) The additional tax to be paid shall not exceed the amount of tax that would be due if all facts, figures, computations, and attachments were reopened.

(C) (1) In the case of an overpayment, a request for refund may be filed under this division within the period prescribed by division (A)(2) of this section for filing the amended return even if it is filed beyond the period prescribed in that division if it otherwise conforms to the requirements of that division. If the amount of the refund is ten dollars or less, no refund need be paid by the municipality to the taxpayer. Except as set forth in division (C)(2) of this section, a request filed under this division shall claim refund of overpayments resulting from alterations to only those facts, figures, computations, or attachments required in the taxpayer's annual return that are affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return unless it is also filed within the time prescribed in section 39.096 of this chapter. Except as set forth in division (C)(2) of this section, the request shall not reopen those facts, figures, computations, or attachments that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return.

(2) The amount to be refunded shall not exceed the amount of refund that would be due if all facts, figures, computations, and attachments were reopened.

39.096 REFUNDS.

(A) Upon receipt of a request for a refund, the Tax Administrator of the municipality, in accordance with this section, shall refund to employers, agents of employers, other payers, or taxpayers, with respect to any income or withholding tax levied by the municipality:

- (1) Overpayments of more than ten dollars;
- (2) Amounts paid erroneously if the refund requested exceeds ten dollars.

(B) (1) Except as otherwise provided in this chapter, returns setting forth a request for refund shall be filed with the Tax Administrator, within three years after the tax was due or paid, whichever is later. Any documentation that substantiates the taxpayer's claim for a refund must be included with the return filing. Failure to remit all documentation, including schedules, other municipal income tax returns, or other supporting documentation necessary to verify credits, income, losses or other pertinent factors on the return will cause delay in processing, and / or disallowance of undocumented credits or losses.

(2) On filing of the refund request, the Tax Administrator shall determine the amount of refund due and certify such amount to the appropriate municipal corporation official for payment. Except as provided in division (B)(3) of this section, the Tax Administrator shall issue an assessment to any taxpayer whose request for refund is fully or partially denied. The assessment shall state the amount of the refund that was denied, the reasons for the denial, and instructions for appealing the assessment.

(3) If a Tax Administrator denies in whole or in part a refund request included within the taxpayer's originally filed annual income tax return, the Tax Administrator shall notify the taxpayer, in writing, of the amount of the refund that was denied, the reasons for the denial, and instructions for requesting an assessment that may be appealed under section 39.18 of this chapter.

(C) A request for a refund that is received after the last day for filing specified in division (B) of this section shall be considered to have been filed in a timely manner if any of the following situations exist:

(1) The request is delivered by the postal service, and the earliest postal service postmark on the cover in which the request is enclosed is not later than the last day for filing the request.

(2) The request is delivered by the postal service, the only postmark on the cover in which the request is enclosed was affixed by a private postal meter, the date of that postmark is not later than the last day for filing the request, and the request is received within seven days of such last day.

(3) The request is delivered by the postal service, no postmark date was affixed to the cover in which the request is enclosed or the date of the postmark so affixed is not legible, and the request is received within seven days of the last day for making the request.

(D) Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment until the date of the refund of the overpayment, except that if any overpayment is refunded within ninety days after the final filing date of the annual return or ninety days after the completed return is filed, whichever is later, no interest shall be allowed on the refund. For the purpose of computing the payment of interest on amounts overpaid, no amount of tax for any taxable year shall be considered to have been paid before the date on which the return on which the tax is reported is due, without regard to any extension of time for filing that return. Interest shall be paid at the interest rate described in division (A)(4) of section 39.10 of this chapter.

(E) As used in this section, "withholding tax" has the same meaning as in section 39.10 of this Chapter.

39.10 PENALTY, INTEREST, FEES, AND CHARGES.

(A) As used in this section:

(1) "Applicable law" means this chapter, the resolutions, ordinances, codes, directives, instructions, and rules adopted by the municipality provided such resolutions, ordinances, codes, directives, instructions, and rules impose or directly or indirectly address the levy, payment, remittance, or filing requirements of a municipal income tax.

(2) "Federal short-term rate" means the rate of the average market yield on outstanding marketable obligations of the United States with remaining periods to maturity of three years or less, as determined under section 1274 of the Internal Revenue Code, for July of the current year.

(3) "Income tax," "estimated income tax," and "withholding tax" mean any income tax, estimated income tax, and withholding tax imposed by a municipal corporation pursuant to applicable law, including at any time before January 1, 2016.

(4) "Interest rate as described in division (A) of this section" means the federal short-term rate, rounded to the nearest whole number percent, plus five (5) percent. The rate shall apply for the calendar year next following the July of the year in which the federal short-term rate is determined in accordance with division (A)(2) of this section.

(5) "Return" includes any tax return, report, reconciliation, schedule, and other document required to be filed with a Tax Administrator or municipal corporation by a taxpayer, employer, any agent of the employer, or any other payer pursuant to applicable law, including at any time before January 1, 2016.

(6) "Unpaid estimated income tax" means estimated income tax due but not paid by the date the tax is required to be paid under applicable law.

(7) "Unpaid income tax" means income tax due but not paid by the date the income tax is required to be paid under applicable law.

(8) "Unpaid withholding tax" means withholding tax due but not paid by the date the withholding tax is required to be paid under applicable law.

(9) "Withholding tax" includes amounts an employer, any agent of an employer, or any other payer did not withhold in whole or in part from an employee's qualifying wages, but that, under applicable law, the employer, agent, or other payer is required to withhold from an employee's qualifying wages.

(B) (1) This section shall apply to the following:

(a) Any return required to be filed under applicable law for taxable years beginning on or after January 1, 2016;

(b) Income tax, estimated income tax, and withholding tax required to be paid or remitted to the municipality on or after January 1, 2016 for taxable years beginning on or after January 1, 2016;

(2) This section does not apply to returns required to be filed or payments required to be made before January 1, 2016, regardless of the filing or payment date. Returns required to be filed or payments required to be made before January 1, 2016 but filed or paid after that date shall be subject to the ordinances or rules, as adopted from time to time before January 1, 2016 of this municipality.

(C) The municipality shall impose on a taxpayer, employer, any agent of the employer, and any other payer, and will attempt to collect, the interest amounts and penalties prescribed in this section when the taxpayer, employer, any agent of the employer, or any other payer for any reason fails, in whole or in part, to make to the municipality timely and full payment or remittance of income tax, estimated income tax, or withholding tax or to file timely with the municipality any return required to be filed.

(1) Interest shall be imposed at the rate defined as "interest rate as described in division (A) of this section", per annum, on all unpaid income tax, unpaid estimated income tax, and unpaid withholding tax. This imposition of interest shall be assessed per month, or fraction of a month.

(2) With respect to unpaid income tax and unpaid estimated income tax, a penalty equal to fifteen percent of the amount not timely paid shall be imposed.

(3) With respect to any unpaid withholding tax, a penalty not to exceed fifty percent of the amount not timely paid shall be imposed.

(4) With respect to returns other than estimated income tax returns, the municipality shall impose a monthly penalty of twenty-five dollars for each failure to timely file each return, regardless of the liability shown thereon for each month, or any fraction thereof, during which the

return remains unfiled regardless of the liability shown thereon. The penalty shall not exceed a total of one hundred fifty dollars in assessed penalty for each failure to timely file a return.

(D) With respect to income taxes, estimated income taxes, withholding taxes, and returns, the municipality shall not impose, seek to collect, or collect any penalty, amount of interest, charges or additional fees not described in this section.

(E) With respect to income taxes, estimated income taxes, withholding taxes, and returns, the municipality shall not refund or credit any penalty, amount of interest, charges, or additional fees that were properly imposed or collected before January 1, 2016.

(F) The Tax Administrator may, in the Tax Administrator's sole discretion, abate or partially abate penalties or interest imposed under this section when the Tax Administrator deems such abatement or partial abatement to be appropriate. Such abatement or partial abatement shall be properly documented and maintained on the record of the taxpayer who received benefit of such abatement or partial abatement.

(G) The municipality shall impose on the taxpayer, employer, any agent of the employer, or any other payer the municipality's post-judgment collection costs and fees, including attorney's fees.

39.11 AUDIT.

(A) At or before the commencement of an audit, as defined in section 39.03(3) of this chapter, the Tax Administrator shall provide to the taxpayer a written description of the roles of the Tax Administrator and of the taxpayer during an audit and a statement of the taxpayer's rights, including any right to obtain a refund of an overpayment of tax. At or before the commencement of an audit, the Tax Administrator shall inform the taxpayer when the audit is considered to have commenced.

(B) Except in cases involving suspected criminal activity, the Tax Administrator shall conduct an audit of a taxpayer during regular business hours and after providing reasonable notice to the taxpayer. A taxpayer who is unable to comply with a proposed time for an audit on the grounds that the proposed time would cause inconvenience or hardship must offer reasonable alternative dates for the audit.

(C) At all stages of an audit by the Tax Administrator, a taxpayer is entitled to be assisted or represented by an attorney, accountant, bookkeeper, or other tax practitioner. The Tax Administrator shall prescribe a form by which a taxpayer may designate such a person to assist or represent the taxpayer in the conduct of any proceedings resulting from actions by the Tax Administrator. If a taxpayer has not submitted such a form, the Tax Administrator may accept other evidence, as the Tax Administrator considers appropriate, that a person is the authorized representative of a taxpayer.

A taxpayer may refuse to answer any questions asked by the person conducting an audit until the taxpayer has an opportunity to consult with the taxpayer's attorney, accountant, bookkeeper, or other tax practitioner. This division does not authorize the practice of law by a person who is not an attorney.

(D) A taxpayer may record, electronically or otherwise, the audit examination.

(E) The failure of the Tax Administrator to comply with a provision of this section shall neither excuse a taxpayer from payment of any taxes owed by the taxpayer nor cure any procedural defect in a taxpayer's case.

(F) If the Tax Administrator fails to substantially comply with the provisions of this section, the Tax Administrator, upon application by the taxpayer, shall excuse the taxpayer from penalties and interest arising from the audit.

39.12 ROUNDING.

A person may round to the nearest whole dollar all amounts the person is required to enter on any return, report, voucher, or other document required under this chapter. Any fractional part of a dollar that equals or exceeds fifty cents shall be rounded to the next whole dollar, and any fractional part of a dollar that is less than fifty cents shall be dropped, rounding down to the nearest whole dollar. If a person chooses to round amounts entered on a document, the person shall round all amounts entered on the document.

39.13 AUTHORITY AND POWERS OF THE TAX ADMINISTRATOR.

39.131 AUTHORITY OF TAX ADMINISTRATOR; ADMINISTRATIVE POWERS OF THE TAX ADMINISTRATOR.

The Tax Administrator has the authority to perform all duties and functions necessary and appropriate to implement the provisions of this chapter, including without limitation:

(A) Exercise all powers whatsoever of an inquisitorial nature as provided by law, including, the right to inspect books, accounts, records, memorandums, and federal and state income tax returns, to examine persons under oath, to issue orders or subpoenas for the production of books, accounts, papers, records, documents, and testimony, to take depositions, to apply to a court for attachment proceedings as for contempt, to approve vouchers for the fees of officers and witnesses, and to administer oaths; provided that the powers referred to in this division of this section shall be exercised by the Tax Administrator only in connection with the performance of the duties respectively assigned to the Tax Administrator under a municipal corporation income tax ordinance or resolution adopted in accordance with this chapter;

(B) Appoint agents and prescribe their powers and duties;

(C) Confer and meet with officers of other municipal corporations and states and officers of the United States on any matters pertaining to their respective official duties as provided by law;

(D) Exercise the authority provided by law, including orders from bankruptcy courts, relative to remitting or refunding taxes, including penalties and interest thereon, illegally or erroneously imposed or collected, or for any other reason overpaid, and, in addition, the Tax Administrator may investigate any claim of overpayment and make a written statement of the Tax Administrator's findings, and, if the Tax Administrator finds that there has been an overpayment, approve and issue a refund payable to the taxpayer, the taxpayer's assigns, or legal representative as provided in this chapter;

(E) Exercise the authority provided by law relative to consenting to the compromise and settlement of tax claims;

(F) Exercise the authority provided by law relative to the use of alternative apportionment methods by taxpayers in accordance with section 39.062 of this chapter;

(G) Make all tax findings, determinations, computations, assessments and orders the Tax Administrator is by law authorized and required to make and, pursuant to time limitations provided by law, on the Tax Administrator's own motion, review, redetermine, or correct any tax findings, determinations, computations, assessments or orders the Tax Administrator has made, but the Tax Administrator shall not review, redetermine, or correct any tax finding, determination, computation, assessment or order which the Tax Administrator has made for which an appeal has been filed with the Local Board of Tax Review or other appropriate tribunal, unless such appeal or application is withdrawn by the appellant or applicant, is dismissed, or is otherwise final;

(H) Destroy any or all returns or other tax documents in the manner authorized by law;

(I) Enter into an agreement with a taxpayer to simplify the withholding obligations described in section 39.051 of this chapter.

39.132 AUTHORITY OF TAX ADMINISTRATOR; COMPROMISE OF CLAIM AND PAYMENT OVER TIME.

(A) As used in this section, "claim" means a claim for an amount payable to the municipality that arises pursuant to the municipal income tax imposed in accordance with this chapter.

(B) The Tax Administrator may do either of the following if such action is in the best interests of the municipality:

(1) Compromise a claim;

(2) Extend for a reasonable period the time for payment of a claim by agreeing to accept monthly or other periodic payments, upon such terms and conditions as the Tax Administrator may require.

(C) The Tax Administrator's rejection of a compromise or payment-over-time agreement proposed by a person with respect to a claim shall not be appealable.

(D) A compromise or payment-over-time agreement with respect to a claim shall be binding upon and shall inure to the benefit of only the parties to the compromise or agreement and shall not extinguish or otherwise affect the liability of any other person.

(E) (1) A compromise or payment-over-time agreement with respect to a claim shall be void if the taxpayer defaults under the compromise or agreement or if the compromise or agreement was obtained by fraud or by misrepresentation of a material fact. Any amount that was due before the compromise or agreement and that is unpaid shall remain due, and any penalties or interest that would have accrued in the absence of the compromise or agreement shall continue to accrue and be due.

(2) The Tax Administrator shall have sole discretion to determine whether or not penalty, interest, charges or applicable fees will be assessed through the duration of any compromise or payment-over-time agreement.

(F) The Tax Administrator may require that the taxpayer provide detailed financial documentation and information, in order to determine whether or not a payment-over-time agreement will be authorized. The taxpayer's failure to provide the necessary and required information by the Tax Administrator shall preclude consideration of a payment-over-time agreement.

39.133 AUTHORITY OF TAX ADMINISTRATOR; RIGHT TO EXAMINE.

(A) The Tax Administrator, or any authorized agent or employee thereof may examine the books, papers, records, and federal and state income tax returns of any employer, taxpayer, or other person that is subject to, or that the Tax Administrator believes is subject to, the provisions of this chapter for the purpose of verifying the accuracy of any return made or, if no return was filed, to ascertain the tax due under this chapter. Upon written request by the Tax Administrator or a duly authorized agent or employee thereof, every employer, taxpayer, or other person subject to this section is required to furnish the opportunity for the Tax Administrator, authorized agent, or employee to investigate and examine such books, papers, records, and federal and state income tax returns at a reasonable time and place designated in the request.

(B) The records and other documents of any taxpayer, employer, or other person that is subject to, or that a Tax Administrator believes is subject to, the provisions of this chapter shall be open to the Tax Administrator's inspection during business hours and shall be preserved for a period of six years following the end of the taxable year to which the records or documents relate, unless the Tax Administrator, in writing, consents to their destruction within that period, or by order requires that they be kept longer. The Tax Administrator of a municipal corporation may require any person, by notice served on that person, to keep such records as the Tax Administrator determines necessary to show whether or not that person is liable, and the extent of such liability, for the income tax levied by the municipality or for the withholding of such tax.

(C) The Tax Administrator may examine under oath any person that the Tax Administrator reasonably believes has knowledge concerning any income that was or would have been returned for taxation or any transaction tending to affect such income. The Tax Administrator may, for this purpose, compel any such person to attend a hearing or examination and to produce any books, papers, records, and federal and state income tax returns in such person's possession or control. The person may be assisted or represented by an attorney, accountant, bookkeeper, or other tax practitioner at any such hearing or examination. This division does not authorize the practice of law by a person who is not an attorney.

(D) No person issued written notice by the Tax Administrator compelling attendance at a hearing or examination or the production of books, papers, records, or federal and state income tax returns under this section shall fail to comply.

39.134 AUTHORITY OF TAX ADMINISTRATOR; REQUIRING IDENTIFYING INFORMATION.

(A) The Tax Administrator may require any person filing a tax document with the Tax Administrator to provide identifying information, which may include the person's social security number, federal employer identification number, or other identification number requested by the Tax Administrator. A person required by the Tax Administrator to provide identifying information that has experienced any change with respect to that information shall notify the Tax Administrator of the change before, or upon, filing the next tax document requiring the identifying information.

(B) (1) If the Tax Administrator makes a request for identifying information and the Tax Administrator does not receive valid identifying information within thirty days of making the request, nothing in this chapter prohibits the Tax Administrator from imposing a penalty upon the person to whom the request was directed pursuant to section 39.10 of this chapter, in addition to any applicable penalty described in section 39.99 of this chapter.

(2) If a person required by the Tax Administrator to provide identifying information does not notify the Tax Administrator of a change with respect to that information as required under division (A) of this section within thirty days after filing the next tax document requiring such identifying information, nothing in this chapter prohibits the Tax Administrator from imposing a penalty pursuant to section 39.10 of this chapter.

(3) The penalties provided for under divisions (B)(1) and (2) of this section may be billed and imposed in the same manner as the tax or fee with respect to which the identifying information is sought and are in addition to any applicable criminal penalties described in section 39.99 of this chapter for a violation of 39.15 of this chapter, and any other penalties that may be imposed by the Tax Administrator by law.

39.14 CONFIDENTIALITY.

(A) Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by R.C. Chapter 718 or by the charter or ordinance of the municipality is confidential, and no person shall access or disclose such information except in accordance with a

proper judicial order or in connection with the performance of that person's official duties or the official business of the municipality as authorized by R.C. Chapter 718 or the charter or ordinance authorizing the levy. The Tax Administrator of the municipality or a designee thereof may furnish copies of returns filed or otherwise received under this chapter and other related tax information to the Internal Revenue Service, the State Tax Commissioner, and Tax Administrators of other municipal corporations.

- (B) This section does not prohibit the municipality from publishing or disclosing statistics in a form that does not disclose information with respect to particular taxpayers.
- (C) As used in this section, "INCOME TAX DEPARTMENT OR OFFICE" means the office administering this chapter.
 - (1) All employees of the Municipality Income Tax Office shall maintain complete confidentiality over all data and statistical information compiled by them in their capacity as employees of the Municipality Income Tax Office, subject to the exceptions provided for in this section. This section shall apply only to the municipality income tax, and not to any other tax data gathered by such employees in the normal course of their employment. All confidential information may be subject to Court Order or subpoena or may be disclosed upon a proper release executed by the affected taxpayer.
 - (2) The following statistical data may be transmitted to another municipality department for internal administrative purposes: information that may be obtained from a separate source, including names, addresses and telephone numbers.
 - (3) The following statistical data may be transmitted to another municipality department for internal administrative purposes: data regarding the collective payroll withholding taxes of a business entity located within the municipality, as long as the business entity involves more than one individual for whom the withholding tax payments are being generated.
 - (4) The following statistical data may be transmitted to another municipality department for internal administrative purposes: data regarding the number of employees and the total payroll taxes generated by all employees of a business entity located within the municipality as long as the business entity employs more than one individual at any time. This data shall only include the total number of employees and the combined total payroll taxes and shall not include earnings or payroll taxes of individual employees of such business entity.
 - (5) No employee of the municipality income tax department shall disclose to the general public or to any other municipality department data concerning individual earnings or profits earned by an individual or by a business entity. No statistical or administrative data shall be disseminated or disclosed to members of the general public.

- (6) Upon proper release, individual data, including confidential data, may be released. The municipality income tax office shall maintain a copy of the release after such data has been disclosed.

39.15 FRAUD.

No person shall knowingly make, present, aid, or assist in the preparation or presentation of a false or fraudulent report, return, schedule, statement, claim, or document authorized or required by municipal corporation ordinance or state law to be filed with the Tax Administrator, or knowingly procure, counsel, or advise the preparation or presentation of such report, return, schedule, statement, claim, or document, or knowingly change, alter, or amend, or knowingly procure, counsel or advise such change, alteration, or amendment of the records upon which such report, return, schedule, statement, claim, or document is based with intent to defraud the municipality or the Tax Administrator.

39.16 OPINION OF THE TAX ADMINISTRATOR.

(A) An "opinion of the Tax Administrator" means an opinion issued under this section with respect to prospective municipal income tax liability. It does not include ordinary correspondence of the Tax Administrator.

(B) A taxpayer may submit a written request for an opinion of the Tax Administrator as to whether or how certain income, source of income, or a certain activity or transaction will be taxed. The written response of the Tax Administrator shall be an "opinion of the Tax Administrator" and shall bind the Tax Administrator, in accordance with divisions (C), (G), and (H) of this section, provided all of the following conditions are satisfied:

(1) The taxpayer's request fully and accurately describes the specific facts or circumstances relevant to a determination of the taxability of the income, source of income, activity, or transaction, and, if an activity or transaction, all parties involved in the activity or transaction are clearly identified by name, location, or other pertinent facts.

(2) The request relates to a tax imposed by the municipality in accordance with this chapter.

(3) The Tax Administrator's response is signed by the Tax Administrator and designated as an "opinion of the Tax Administrator."

(C) An opinion of the Tax Administrator shall remain in effect and shall protect the taxpayer for whom the opinion was prepared and who reasonably relies on it from liability for any taxes, penalty, or interest otherwise chargeable on the activity or transaction specifically held by the Tax Administrator's opinion to be taxable in a particular manner or not to be subject to taxation for any taxable years that may be specified in the opinion, or until the earliest of the following dates:

(1) The effective date of a written revocation by the Tax Administrator sent to the taxpayer by certified mail, return receipt requested. The effective date of the revocation shall be the taxpayer's date of receipt or one year after the issuance of the opinion, whichever is later;

(2) The effective date of any amendment or enactment of a relevant section of the Ohio Revised Code, uncodified state law, or the municipality's income tax ordinance that would substantially change the analysis and conclusion of the opinion of the Tax Administrator;

(3) The date on which a court issues an opinion establishing or changing relevant case law with respect to the Ohio Revised Code, uncodified state law, or the municipality's income tax ordinance;

(4) If the opinion of the Tax Administrator was based on the interpretation of federal law, the effective date of any change in the relevant federal statutes or regulations, or the date on which a court issues an opinion establishing or changing relevant case law with respect to federal statutes or regulations;

(5) The effective date of any change in the taxpayer's material facts or circumstances;

(6) The effective date of the expiration of the opinion, if specified in the opinion.

(D) (1) A taxpayer is not relieved of tax liability for any activity or transaction related to a request for an opinion that contained any misrepresentation or omission of one or more material facts.

(2) If the taxpayer knowingly has misrepresented the pertinent facts or omitted material facts with intent to defraud the municipality in order to obtain a more favorable opinion, the taxpayer may be in violation of section 39.15 of this chapter.

(E) If a Tax Administrator provides written advice under this section, the opinion shall include a statement that:

(1) The tax consequences stated in the opinion may be subject to change for any of the reasons stated in division (C) of this section;

(2) It is the duty of the taxpayer to be aware of such changes.

(F) A Tax Administrator may refuse to offer an opinion on any request received under this section.

(G) This section binds a Tax Administrator only with respect to opinions of the Tax Administrator issued on or after January 1, 2016.

(H) An opinion of a Tax Administrator binds that Tax Administrator only with respect to the taxpayer for whom the opinion was prepared and does not bind the Tax Administrator of any other municipal corporation.

(I) A Tax Administrator shall make available the text of all opinions issued under this section, except those opinions prepared for a taxpayer who has requested that the text of the opinion remain confidential. In no event shall the text of an opinion be made available until the Tax Administrator

has removed all information that identifies the taxpayer and any other parties involved in the activity or transaction.

(J) An opinion of the Tax Administrator issued under this section or a refusal to offer an opinion under subsection (F) may not be appealed.

39.17 ASSESSMENT; APPEAL BASED ON PRESUMPTION OF DELIVERY.

(A) (1) The Tax Administrator shall serve an assessment either by personal service, by certified mail, or by a delivery service authorized under R.C. 5703.056.

(2) The Tax Administrator may deliver the assessment through alternative means as provided in this section, including, but not limited to, delivery by secure electronic mail. Such alternative delivery method must be authorized by the person subject to the assessment.

(3) Once service of the assessment has been made by the Tax Administrator or other municipal official, or the designee of either, the person to whom the assessment is directed may protest the ruling of that assessment by filing an appeal with the Local Board of Tax Review within sixty days after the receipt of service. The delivery of an assessment of the Tax Administrator as prescribed in R.C. 718.18 is prima facie evidence that delivery is complete and that the assessment is served.

(B) (1) A person may challenge the presumption of delivery and service as set forth in this division. A person disputing the presumption of delivery and service under this section bears the burden of proving by a preponderance of the evidence that the address to which the assessment was sent was not an address with which the person was associated at the time the Tax Administrator originally mailed the assessment by certified mail. For the purposes of this section, a person is associated with an address at the time the Tax Administrator originally mailed the assessment if, at that time, the person was residing, receiving legal documents, or conducting business at the address; or if, before that time, the person had conducted business at the address and, when the assessment was mailed, the person's agent or the person's affiliate was conducting business at the address. For the purposes of this section, a person's affiliate is any other person that, at the time the assessment was mailed, owned or controlled at least twenty percent, as determined by voting rights, of the addressee's business.

(2) If a person elects to appeal an assessment on the basis described in division (B)(1) of this section, and if that assessment is subject to collection and is not otherwise appealable, the person must do so within sixty days after the initial contact by the Tax Administrator or other municipal official, or the designee of either, with the person. Nothing in this division prevents the Tax Administrator or other official from entering into a compromise with the person if the person does not actually file such an appeal with the Local Board of Tax Review.

39.18 LOCAL BOARD OF TAX REVIEW; APPEAL TO LOCAL BOARD OF TAX REVIEW.

(A) (1) The legislative authority of the municipality shall maintain a Local Board of Tax Review to hear appeals as provided in R.C. Chapter 718.

(2) The Local Board of Tax Review shall consist of three members. The three members of the Local Board of Tax Review must be domiciled in the municipality. Two members shall be appointed by the legislative authority of the municipality, and may not be employees, elected officials, or contractors with the municipality at any time during their term or in the five years immediately preceding the date of appointment. One member shall be appointed by the top administrative official of the municipality. This member may be an employee of the municipality but may not be the Director of Finance or equivalent officer, or the Tax Administrator or other similar official or an employee directly involved in municipal tax matters, or any direct subordinate thereof.

(3) The term for members of the Local Board of Tax Review appointed by the legislative authority of the municipality shall be two years. There is no limit on the number of terms that a member may serve should the member be reappointed by the legislative authority. The board member appointed by the top administrative official of the municipality shall serve at the discretion of the administrative official.

(4) Members of the Local Board of Tax Review appointed by the legislative authority may be removed by the legislative authority as set forth in R.C. 718.11(A)(4).

(5) A member of the board who, for any reason, ceases to meet the qualifications for the position prescribed by this section shall resign immediately by operation of law.

(6) A vacancy in an unexpired term shall be filled in the same manner as the original appointment within sixty days of when the vacancy was created. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. No vacancy on the board shall impair the power and authority of the remaining members to exercise all the powers of the board.

(7) If a member is temporarily unable to serve on the board due to a conflict of interest, illness, absence, or similar reason, the legislative authority or top administrative official that appointed the member shall appoint another individual to temporarily serve on the board in the member's place. This appointment shall be subject to the same requirements and limitations as are applicable to the appointment of the member temporarily unable to serve.

(8) No member of the Local Board of Tax Review shall receive compensation, fee, or reimbursement of expenses for service on the Board.

(B) Whenever a Tax Administrator issues an assessment, the Tax Administrator shall notify the taxpayer in writing at the same time of the taxpayer's right to appeal the assessment, the manner in which the taxpayer may appeal the assessment, and the address to which the appeal should be directed, and to whom the appeal should be directed.

(C) Any person who has been issued an assessment may appeal the assessment to the Board by filing a request with the Board. The request shall be in writing, shall specify the reason or reasons why the assessment should be deemed incorrect or unlawful, and shall be filed within sixty days after the taxpayer receives the assessment.

(D) The Local Board of Tax Review shall schedule a hearing to be held within sixty days after receiving an appeal of an assessment under division (C) of this section, unless the taxpayer requests additional time to prepare or waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the Board and/or may be represented by an attorney at law, certified public accountant, or other representative. The Board may allow a hearing to be continued as jointly agreed to by the parties. In such a case, the hearing must be completed within one hundred twenty days after the first day of the hearing unless the parties agree otherwise.

(E) The Board may affirm, reverse, or modify the Tax Administrator's assessment or any part of that assessment. The Board shall issue a final determination on the appeal within ninety days (90) after the Board's final hearing on the appeal and send a copy of its final determination by ordinary mail to all of the parties to the appeal within fifteen days after issuing the final determination. The taxpayer or the Tax Administrator may appeal the Board's final determination as provided in R.C. 5717.011.

(F) The Local Board of Tax Review created pursuant to this section shall adopt rules governing its procedures, including a schedule of related costs, and shall keep a record of its transactions. The rules governing the Local Board of Tax Review procedures shall be in writing and may be amended as needed by the Local Board of Tax Review. Such records are not public records available for inspection under R.C. 149.43. For this reason, any documentation, copies of returns or reports, final determinations, or working papers for each case must be maintained in a secure location under the control of the Tax Administrator. No member of the Local Board of Tax Review may remove such documentation, copies of returns or reports, final determinations, or working papers from the hearing. Hearings requested by a taxpayer before a Local Board of Tax Review created pursuant to this section are not meetings of a public body subject to R.C. 121.22. For this reason, such hearings shall not be open to the public, and only those parties to the case may be present during the hearing.

39.19 ACTIONS TO RECOVER; STATUTE OF LIMITATIONS.

(A) (1) (a) Civil actions to recover municipal income taxes and penalties and interest on municipal income taxes shall be brought within the latter of:

- (i) Three years after the tax was due or the return was filed, whichever is later; or
- (ii) One year after the conclusion of the qualifying deferral period, if any.

(b) The time limit described in division (A)(1)(a) of this section may be extended at any time if both the Tax Administrator and the employer, agent of the employer, other payer, or taxpayer consent in writing to the extension. Any extension shall also extend for the same period of time the time limit described in division (C) of this section.

(2) As used in this section, "qualifying deferral period" means a period of time beginning and ending as follows:

(a) Beginning on the date a person who is aggrieved by an assessment files with a Local Board of Tax Review the request described in section 39.18 of this chapter. That date shall not be affected by any subsequent decision, finding, or holding by any administrative body or court that the Local Board of Tax Review with which the aggrieved person filed the request did not have jurisdiction to affirm, reverse, or modify the assessment or any part of that assessment.

(b) Ending the later of the sixtieth day after the date on which the final determination of the Local Board of Tax Review becomes final or, if any party appeals from the determination of the Local Board of Tax Review, the sixtieth day after the date on which the final determination of the Local Board of Tax Review is either ultimately affirmed in whole or in part or ultimately reversed and no further appeal of either that affirmation, in whole or in part, or that reversal is available or taken.

(B) Prosecutions for an offense made punishable under a resolution or ordinance imposing an income tax shall be commenced within three years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five percent or more of income required to be reported, prosecutions may be commenced within six years after the commission of the offense.

(C) A claim for a refund of municipal income taxes shall be brought within the time limitation provided in section 39.096 of this chapter.

(D) (1) Notwithstanding the fact that an appeal is pending, the petitioner may pay all or a portion of the assessment that is the subject of the appeal. The acceptance of a payment by the municipality does not prejudice any claim for refund upon final determination of the appeal.

(2) If upon final determination of the appeal an error in the assessment is corrected by the Tax Administrator, upon an appeal so filed or pursuant to a final determination of the Local Board of Tax Review created under section 39.18 of this chapter, of the Ohio Board of Tax Appeals, or any court to which the decision of the Ohio Board of Tax Appeals has been appealed, so that the amount due from the party assessed under the corrected assessment is less than the amount paid, there shall be issued to the appellant or to the appellant's assigns or legal representative a refund in the amount of the overpayment as provided by section 39.096 of this chapter, with interest on that amount as provided by division (D) of this section.

(E) No civil action to recover municipal income tax or related penalties or interest shall be brought during either of the following time periods:

(1) The period during which a taxpayer has a right to appeal the imposition of that tax or interest or those penalties;

(2) The period during which an appeal related to the imposition of that tax or interest or those penalties is pending.

39.20 ADOPTION OF RULES.

(A) Pursuant to R.C. 718.30, the municipality, pursuant to this chapter, grants authority to the Tax Administrator to adopt rules to administer the income tax imposed by the municipality.

(B) All rules adopted under this section shall be published and posted on the internet.

39.21 INFORMATION BY LANDLORDS.

(A) The owner or manager or any person in control who rents or leases to other persons real estate for any purpose in the City must make a report at the end of the first month of every quarter to the Tax Office as to the identity of their tenants, lessees or other persons having any interest in such real estate and to the best of their knowledge the address of same

(B) Any condominium or landminium association is required to report at the end of the first month of every quarter to the Tax Office as to the identify of owners, tenants, lessees or other persons having any interest in such real estate and the address of same to the extent that it has knowledge thereof or has the reasonable means of determining. The President of the condominium or landminium association is responsible to provide this information, or in the absence of failure to provide, any association officer is responsible for providing the above stated report.

39.22 FILING NET PROFIT TAXES; ELECTION TO BE SUBJECT TO PROVISIONS OF CHAPTER.

(A) A taxpayer may elect to be subject to sections 39.22 to 39.37 in lieu of the provisions set forth in the remainder of this chapter. Notwithstanding any other provision of this chapter, upon the taxpayer's election, both of the following shall apply:

(1) The State Tax Commissioner shall serve as the sole administrator of the municipal net profit tax for which the taxpayer as defined in 39.23(C) of this chapter is liable for the term of the election;

(2) The Tax Commissioner shall administer the tax pursuant to R.C. 718.80 to 718.9, sections 39.22 to 39.37 of this chapter, and any applicable provision of R.C. Chapter 5703.

(B)

(1) A taxpayer shall make the initial election on or before the first day of the third month after the beginning of the taxpayer's taxable year by notifying the Tax Commissioner and the City of Beavercreek, on a form prescribed by the Tax Commissioner.

(2)

(a) The election, once made by the taxpayer, applies to the taxable year in which the election is made and to each subsequent taxable year until the taxpayer notifies the Tax Commissioner and the City of Beavercreek of its termination of the election.

(b) A notification of termination shall be made, on a form prescribed by the Tax Commissioner, on or before the first day of the third month of any taxable year.

(c) Upon a timely and valid termination of the election, the taxpayer is no longer subject to sections 39.22 to 39.37 of this chapter, and is instead subject to the provisions set forth in the remainder of this chapter.

(C) The Tax Commissioner shall enforce and administer sections 39.22 to 39.37 of this chapter. In addition to any other powers conferred upon the Tax Commissioner by law, the Tax Commissioner may:

(1) Prescribe all forms necessary to administer those sections;

(2) Adopt such rules as the Tax Commissioner finds necessary to carry out those sections;

(3) Appoint and employ such personnel as are necessary to carry out the duties imposed upon the Tax Commissioner by those sections.

(D) The Tax Commissioner shall not be considered a Tax Administrator, as that term is defined in R.C. 718.01 and section 39.03 of the City of Beavercreek Codified Ordinances.

39.23 DEFINITIONS.

If a term used in sections 39.22 to 39.37 that is not otherwise defined in this chapter is used in a comparable context in both the laws of the United States relating to federal income tax and in Title LVII of the Ohio Revised Code and the use is not consistent, then the use of the term in the laws of the United States relating to federal income tax shall have control over the use of the term in Title LVII of the Ohio Revised Code, unless the term is defined in R.C. Chapter 5703, in which case the definition in that chapter shall control. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States related to federal income taxes. If a term is defined in both this section and section 39.03, the definition in this section shall control for all uses of that term in sections 39.22 to 39.37.

As used in sections 39.22 to 39.37 of the Beavercreek Codified Ordinances only:

(A) "Municipal taxable income" means income apportioned or situated to the municipal corporation under section 39.24, as applicable.

(B) "Adjusted federal taxable income," for a person required to file as a C corporation, or for a person that has elected to be taxed as a C corporation as described in division (D)(5) of R.C. 718.01 and section 39.03 of this chapter, means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:

(1) Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.

(2) Add an amount equal to five percent of intangible income deducted under division (B)(1) of this section but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in section 1221 of the Internal Revenue Code.

(3) Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code.

(4)

(a) Except as provided in division (B)(4)(b) of this section, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code.

(b) Division (B)(4)(a) of this section does not apply to the extent the income or gain is income or gain described in section 1245 or 1250 of the Internal Revenue Code.

(5) Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income.

(6) In the case of a real estate investment trust or regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income.

(7) Deduct, to the extent not otherwise deducted or excluded in computing federal taxable income, any income derived from a transfer agreement or from the enterprise transferred under that agreement under R.C. 4313.02.

(8) Deduct exempt income to the extent not otherwise deducted or excluded in computing adjusted federal taxable income.

(9) Deduct any net profit of a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that net profit in the group's federal taxable income in accordance with division (E)(3)(b) of section 39.28.

(10) Add any loss incurred by a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that loss in the group's federal taxable income in accordance with division (E)(3)(b) of section 39.28.

If the taxpayer is not a C corporation and is not a publicly traded partnership that has made the election described in division (23)(E) of section 39.03, the taxpayer shall compute adjusted federal taxable income under this section as if the taxpayer were a C corporation, except guaranteed payments and other similar amounts paid or accrued to a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deductible expense unless such payments are in consideration for the use of capital and treated as payment of interest under section 469 of the Internal Revenue Code or United States Department of Treasury regulations. Amounts paid or accrued to a qualified self-employed retirement plan with respect to a partner, former partner, shareholder, former shareholder, member, or former member of the taxpayer, amounts paid or accrued to or for health insurance for a partner, former partner, shareholder, former shareholder, member, or former member, and amounts paid or accrued to or for life insurance for a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deduction.

Nothing in division (B) of this section shall be construed as allowing the taxpayer to add or deduct any amount more than once or shall be construed as allowing any taxpayer to deduct any amount paid to or accrued for purposes of federal self-employment tax.

(C) "Taxpayer" has the same meaning as in section 39.03(47) of the Beavercreek Codified Ordinances, except that "taxpayer" does not include natural persons or entities subject to the tax imposed under R.C. Chapter 5745. "Taxpayer" may include receivers, assignees, or trustees in bankruptcy when such persons are required to assume the role of a taxpayer.

(D) "Tax return" or "return" means the notifications and reports required to be filed pursuant to sections 39.22 to 39.37 for the purpose of reporting municipal income taxes and includes declarations of estimated tax.

(E) "Taxable year" means the calendar year or the taxpayer's fiscal year ending during the calendar year, or fractional part thereof, upon which the calculation of the taxpayer's adjusted federal taxable income is based pursuant to this chapter. If a taxpayer's taxable year is changed for federal income tax purposes, the taxable year for purposes of sections 39.22 to 39.37 is changed accordingly but may consist of an aggregation of more than one taxable year for federal income tax purposes. The Tax Commissioner may prescribe by rule an appropriate period as the taxable year for a taxpayer that has had a change of its taxable year for federal income tax purposes, for a taxpayer that has two or more short taxable years for federal income tax purposes as the result of a change of ownership, or for a new taxpayer that would otherwise have no taxable year.

(F) "Assessment" means a notice of underpayment or nonpayment of a tax issued pursuant to section 39.32 of this chapter.

39.24 APPLICABILITY; TAXABLE SITUS; APPORTIONMENT.

This section applies to any taxpayer that is engaged in a business or profession in the City of Beavercreek and that has made the election under section 39.22 of this chapter.

(A) Except as otherwise provided in division (B) of this section, net profit from a business or profession conducted both within and without the boundaries of the City of Beavercreek shall be considered as having a taxable situs in the City of Beavercreek for purposes of municipal income taxation in the same proportion as the average ratio of the following:

(1) The average original cost of the real property and tangible personal property owned or used by the taxpayer in the business or profession in the City of Beavercreek during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.

As used in the preceding paragraph, tangible personal or real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight;

(2) Wages, salaries, and other compensation paid during the taxable period to individuals employed in the business or profession for services performed in the City of Beavercreek to wages, salaries, and other compensation paid during the same period to individuals employed in the business or profession, wherever the individual's services are performed, excluding compensation from which taxes are not required to be withheld under section 39.052;

(3) Total gross receipts of the business or profession from sales and rentals made and services performed during the taxable period in the City of Beavercreek to total gross receipts of the business or profession during the same period from sales, rentals, and services, wherever made or performed.

(B)

(1) If the apportionment factors described in division (A) of this section do not fairly represent the extent of a taxpayer's business activity in the City of Beavercreek, the taxpayer may request, or the Tax Commissioner may require, that the taxpayer use, with respect to all or any portion of the income of the taxpayer, an alternative apportionment method involving one or more of the following:

- (a) Separate accounting;
- (b) The exclusion of one or more of the factors;
- (c) The inclusion of one or more additional factors that would provide for a fairer apportionment of the income of the taxpayer to the municipal corporation;

(d) A modification of one or more of the factors.

(2) A taxpayer request to use an alternative apportionment method shall be in writing and shall accompany a tax return, timely filed appeal of an assessment, or timely filed amended tax return. The taxpayer may use the requested alternative method unless the Tax Commissioner denies the request in an assessment issued within the period prescribed by division (A) of section 39.32 of this chapter.

(3) The Tax Commissioner may require a taxpayer to use an alternative apportionment method as described in division (B)(1) of this section only by issuing an assessment to the taxpayer within the period prescribed by division (A) of section 39.32 of this chapter.

(C) As used in division (A)(2) of this section, "wages, salaries, and other compensation" includes only wages, salaries, or other compensation paid to an employee for services performed at any of the following locations:

(1) A location that is owned, controlled, or used by, rented to, or under the possession of one of the following:

- (a) The employer;
- (b) A vendor, customer, client, or patient of the employer, or a related member of such a vendor, customer, client, or patient;
- (c) A vendor, customer, client, or patient of a person described in division (C)(1)(b) of this section, or a related member of such a vendor, customer, client, or patient.

(2) Any location at which a trial, appeal, hearing, investigation, inquiry, review, court-martial, or similar administrative, judicial, or legislative matter or proceeding is being conducted, provided that the compensation is paid for services performed for, or on behalf of, the employer or that the employee's presence at the location directly or indirectly benefits the employer;

(3) Any other location, if the Tax Commissioner determines that the employer directed the employee to perform the services at the other location in lieu of a location described in division (C)(1) or (2) of this section solely in order to avoid or reduce the employer's municipal income tax liability. If the Tax Commissioner makes such a determination, the employer may dispute the determination by establishing, by a preponderance of the evidence, that the Tax Commissioner's determination was unreasonable.

(D) For the purposes of division (A)(3) of this section, receipts from sales and rentals made and services performed shall be situated to the City of Beavercreek as follows:

(1) Gross receipts from the sale of tangible personal property shall be situated to the City of Beavercreek only if, regardless of where title passes, the property meets either of the following criteria:

(a) The property is shipped to or delivered within the City of Beavercreek from a stock of goods located within the City of Beavercreek.

(b) The property is delivered within the City of Beavercreek from a location outside the City of Beavercreek, provided the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the City of Beavercreek and the sales result from such solicitation or promotion.

(2) Gross receipts from the sale of services shall be situated to the City of Beavercreek to the extent that such services are performed in the City of Beavercreek.

(3) To the extent included in income, gross receipts from the sale of real property located in the City of Beavercreek shall be situated to the City of Beavercreek.

(4) To the extent included in income, gross receipts from rents and royalties from real property located in the City of Beavercreek shall be situated to the City of Beavercreek.

(5) Gross receipts from rents and royalties from tangible personal property shall be situated to the City of Beavercreek based upon the extent to which the tangible personal property is used in the City of Beavercreek.

(E) Commissions received by a real estate agent or broker relating to the sale, purchase, or lease of real estate shall be situated to the City of Beavercreek in which the real estate is located. Net profit reported by the real estate agent or broker shall be allocated to the City of Beavercreek based upon the ratio of the commissions the agent or broker received from the sale, purchase, or lease of real estate located in the City of Beavercreek to the commissions received from the sale, purchase, or lease of real estate everywhere in the taxable year.

(F) If, in computing a taxpayer's adjusted federal taxable income, the taxpayer deducted any amount with respect to a stock option granted to an employee, and if the employee is not required to include in the employee's income any such amount or a portion thereof because it is exempted from taxation under divisions (11)(L) and (34)(B)(ii) of section 39.03 of this chapter by the City of Beavercreek or substantially similar provision of the codified ordinances of another municipal corporation, the taxpayer shall add the amount that is exempt from taxation to the taxpayer's net profit that was apportioned to the City of Beavercreek. In no case shall a taxpayer be required to add to its net profit that was apportioned to the City of Beavercreek any amount other than the amount upon which the employee would be required to pay tax were the amount related to the stock option not exempted from taxation.

This division applies solely for the purpose of making an adjustment to the amount of a taxpayer's net profit that was apportioned to the City of Beavercreek under this section.

(G) When calculating the ratios described in division (A) of this section for the purposes of that division or division (B) of this section, the owner of a disregarded entity shall include in the owner's ratios the property, payroll, and gross receipts of such disregarded entity.

**39.25 INFORMATION PROVIDED TO TAX ADMINISTRATORS;
CONFIDENTIALITY.**

(A) Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by sections 39.22 to 39.37 of this chapter is confidential, and no person shall disclose such information, except for official purposes, in accordance with a proper judicial order, or as provided in R.C. 4123.271 or 5703.21. The Tax Commissioner may furnish the Internal Revenue Service with copies of returns filed. This section does not prohibit the publication of statistics in a form which does not disclose information with respect to particular taxpayers.

(B) In May and November of each year, the Tax Commissioner shall provide the City of Beavercreek Tax Administrator with the following information for every taxpayer that filed tax returns with the Commissioner under sections 39.22 to 39.37 of this chapter and that had municipal taxable income apportionable to the City of Beavercreek under this chapter for any prior year:

- (1) The taxpayer's name, address, and federal employer identification number;
- (2) The taxpayer's apportionment ratio for, and amount of municipal taxable income apportionable to, the City of Beavercreek pursuant to section 39.24 of this chapter;
- (3) Whether the taxpayer requested that any overpayment be carried forward to a future taxable year;
- (4) The amount of any credit claimed under R.C. 718.94.

(C) Not later than thirty days after each distribution made to municipal corporations under R.C. 718.83, the Tax Commissioner shall provide to the City of Beavercreek a report stating the name and federal identification number of every taxpayer that made estimated payments that are attributable to the City of Beavercreek and the amount of each such taxpayer's estimated payment.

(D) The information described under divisions (B) and (C) of this section shall be provided to the individual or individuals designated by the City of Beavercreek Tax Administrator under R.C. 718.83(D).

(E)

(1) The City of Beavercreek expects that the Tax Commissioner will, pursuant to R.C. 718.84(E) provide tax returns and other information it receives in the performance of its administration of the municipal net profits tax for taxpayers making the election provided in section 39.22 of this chapter. The Tax Administrator shall review these returns and information, as well as the information received pursuant to divisions (B) and (C) of this section and has discretion to refer any taxpayer for audit by the Tax Commissioner. Such referral shall be made on a form prescribed by the Tax Commissioner and shall include any information that forms the basis for the referral.

(2) If the Tax Commissioner declines to audit a taxpayer referred by the Tax Administrator under this section, the City of Beavercreek reserves its right to pursue any and all remedies, whether at law or in equity, to ensure that the correct tax liability has been calculated and paid by the taxpayer.

39.26 FILING OF ANNUAL RETURN; REMITTANCE; DISPOSITION OF FUNDS.

(A)

(1) For each taxable year, every taxpayer shall file an annual return. Such return, along with the amount of tax shown to be due on the return less the amount paid for the taxable year under section 39.30, shall be submitted to the Tax Commissioner, on a form and in the manner prescribed by the Commissioner, on or before the fifteenth day of the fourth month following the end of the taxpayer's taxable year.

(2) If a taxpayer has multiple taxable years ending within one calendar year, the taxpayer shall aggregate the facts and figures necessary to compute the tax due under this chapter, in accordance with sections 39.23, 39.24, and, if applicable, 39.28 onto its annual return.

(3) The remittance shall be made payable to the treasurer of state and in the form prescribed by the Tax Commissioner. If the amount payable with the tax return is ten dollars or less, no remittance is required.

(B)

(1) Each return required to be filed under this section shall contain the signature of the taxpayer or the taxpayer's duly authorized agent and of the person who prepared the return for the taxpayer and shall include the taxpayer's identification number. Each return shall be verified by a declaration under penalty of perjury.

(2)

(a) The Tax Commissioner may require a taxpayer to include, with each annual tax return, amended return, or request for refund filed with the Tax Commissioner under sections 39.22 to 39.37, copies of any relevant documents or other information.

(b) A taxpayer that files an annual tax return electronically through the Ohio Business Gateway or in another manner as prescribed by the Tax Commissioner shall either submit the documents required under this division electronically as prescribed at the time of filing or, if electronic submission is not available, mail the documents to the Tax Commissioner. The Department of Taxation shall publish a method of electronically submitting the documents required under this division on or before January 1, 2019.

(3) After a taxpayer files a tax return, the Tax Commissioner may request, and the taxpayer shall provide, any information, statements, or documents required to determine and verify the taxpayer's municipal income tax.

(D)

(1)

(a) Any taxpayer that has duly requested an automatic extension for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of a tax return with the Tax Commissioner under this section. The extended due date of the return shall be the fifteenth day of the tenth month after the last day of the taxable year to which the return relates.

(b) A taxpayer that has not requested or received a six-month extension for filing the taxpayer's federal income tax return may request that the Tax Commissioner grant the taxpayer a six-month extension of the date for filing the taxpayer's municipal income tax return. If the Tax Commissioner receives the request on or before the date the municipal income tax return is due, the Tax Commissioner shall grant the taxpayer's extension request.

(c) An extension of time to file under division (D)(1) of this section is not an extension of the time to pay any tax due unless the Tax Commissioner grants an extension of that date.

(2) If the Tax Commissioner considers it necessary in order to ensure payment of a tax imposed in accordance with section 39.011 of this chapter, the Tax Commissioner may require taxpayers to file returns and make payments otherwise than as provided in this section, including taxpayers not otherwise required to file annual returns.

(E) Each return required to be filed in accordance with this section shall include a box that the taxpayer may check to authorize another person, including a tax return preparer who prepared the return, to communicate with the Tax Commissioner about matters pertaining to the return. The return or instructions accompanying the return shall indicate that by checking the box the taxpayer authorizes the Tax Commissioner to contact the preparer or other person concerning questions that arise during the examination or other review of the return and authorizes the preparer or other person only to provide the Tax Commissioner with information that is missing from the return, to contact the Tax Commissioner for information about the examination or other review of the return or the status of the taxpayer's refund or payments, and to respond to notices about mathematical errors, offsets, or return preparation that the taxpayer has received from the Tax Commissioner and has shown to the preparer or other person.

(F) When income tax returns or other documents require the signature of a tax return preparer, the Tax Commissioner shall accept a facsimile or electronic version of such a signature in lieu of a manual signature.

39.27 ELECTRONIC FILING.

(A) All taxpayers that have made the election allowed under section 39.22 of this chapter shall file any tax return or extension for filing a tax return, and shall make payment of amounts shown to be due on such returns, electronically, either through the Ohio Business Gateway or in another manner as prescribed by the Tax Commissioner.

(B) A taxpayer may apply to the Tax Commissioner, on a form prescribed by the Tax Commissioner, to be excused from the requirement to file returns and make payments electronically. For good cause shown, the Tax Commissioner may excuse the applicant from the requirement and permit the applicant to file the returns or make the payments by nonelectronic means.

(C) The Tax Commissioner may adopt rules establishing the following:

(1) The format of documents to be used by taxpayers to file returns and make payments by electronic means;

(2) The information taxpayers must submit when filing tax returns by electronic means.

39.28 CONSOLIDATED RETURNS.

(A) As used in this section:

(1) "Affiliated group of corporations" means an affiliated group as defined in section 1504 of the Internal Revenue Code, except that, if such a group includes at least one incumbent local exchange carrier that is primarily engaged in the business of providing local exchange telephone service in this state, the affiliated group shall not include any incumbent local exchange carrier that would otherwise be included in the group.

(2) "Consolidated federal income tax return" means a consolidated return filed for federal income tax purposes pursuant to section 1501 of the Internal Revenue Code.

(3) "Consolidated federal taxable income" means the consolidated taxable income of an affiliated group of corporations, as computed for the purposes of filing a consolidated federal income tax return, before consideration of net operating losses or special deductions. "Consolidated federal taxable income" does not include income or loss of an incumbent local exchange carrier that is excluded from the affiliated group under division (A)(1) of this section.

(4) "Incumbent local exchange carrier" has the same meaning as in R.C. 4927.01.

(5) "Local exchange telephone service" has the same meaning as in R.C. 5727.01.

(B)

(1) A taxpayer that is a member of an affiliated group of corporations may elect to file a consolidated tax return for a taxable year if at least one member of the affiliated group of corporations is subject to municipal income tax in that taxable year and if the affiliated group of corporations filed a consolidated federal income tax return with respect to that taxable year. The election is binding for a five-year period beginning with the first taxable year of the initial election unless a change in the reporting method is required under federal law. The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing consolidated tax returns under division (B)(2) of this section or a taxpayer receives permission

from the Tax Commissioner. The Tax Commissioner shall approve such a request for good cause shown.

(2) An election to discontinue filing consolidated tax returns under this section must be made on or before the fifteenth day of the fourth month of the year following the last year of a five-year consolidated tax return election period in effect under division (B)(1) of this section. The election to discontinue filing a consolidated tax return is binding for a five-year period beginning with the first taxable year of the election.

(3) An election made under division (B)(1) or (2) of this section is binding on all members of the affiliated group of corporations subject to a municipal income tax.

(4) When a taxpayer makes the election allowed under section 39.22 of this chapter, a valid election made by the taxpayer under section 39.063 is binding upon the Tax Commissioner for the remainder of the five-year period.

(5) When an election made under section 39.22 of this chapter is terminated, a valid election made under this section is binding upon the Tax Administrator for the remainder of the five-year period.

(C) A taxpayer that is a member of an affiliated group of corporations that filed a consolidated federal income tax return for a taxable year shall file a consolidated tax return for that taxable year if the Tax Commissioner determines, by a preponderance of the evidence, that intercompany transactions have not been conducted at arm's length and that there has been a distortive shifting of income or expenses with regard to allocation of net profits to a municipal corporation. A taxpayer that is required to file a consolidated tax return for a taxable year shall file a consolidated tax return for all subsequent taxable years unless the taxpayer requests and receives written permission from the Tax Commissioner to file a separate return or a taxpayer has experienced a change in circumstances.

(D) A taxpayer shall prepare a consolidated tax return in the same manner as is required under the United States Department of Treasury regulations that prescribe procedures for the preparation of the consolidated federal income tax return required to be filed by the common parent of the affiliated group of which the taxpayer is a member.

(E)

(1) Except as otherwise provided in divisions (E)(2), (3), and (4) of this section, corporations that file a consolidated tax return shall compute adjusted federal taxable income, as defined in section 39.23, by substituting "consolidated federal taxable income" for "federal taxable income" wherever "federal taxable income" appears in that division and by substituting "an affiliated group of corporation's" for "a C corporation's" wherever "a C corporation's" appears in that division.

(2) No corporation filing a consolidated tax return shall make any adjustment otherwise required under division (B) of section 39.23 to the extent that the item of income or deduction otherwise subject to the adjustment has been eliminated or consolidated in the computation of consolidated federal taxable income.

(3) If the net profit or loss of a pass-through entity having at least eighty percent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, the corporation filing a consolidated tax return shall do one of the following with respect to that pass-through entity's net profit or loss for that taxable year:

(a) Exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in section 39.24, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation. If the entity's net profit or loss is so excluded, the entity shall be subject to taxation as a separate taxpayer on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.

(b) Include the pass-through entity's net profit or loss in the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in section 39.24, include the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation. If the entity's net profit or loss is so included, the entity shall not be subject to taxation as a separate taxpayer on the basis of the entity's net profits that are included in the consolidated federal taxable income of the affiliated group.

(4) If the net profit or loss of a pass-through entity having less than eighty percent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, all of the following shall apply:

(a) The corporation filing the consolidated tax return shall exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purposes of making the computations required in section 39.24, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation;

(b) The pass-through entity shall be subject to municipal income taxation as a separate taxpayer in accordance with sections 39.22 to 39.37 on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.

(F) Corporations filing a consolidated tax return shall make the computations required under section 39.24 by substituting "consolidated federal taxable income attributable to" for "net profit from" wherever "net profit from" appears in that section and by substituting "affiliated group of corporations" for "taxpayer" wherever "taxpayer" appears in that section.

(G) Each corporation filing a consolidated tax return is jointly and severally liable for any tax, interest, penalties, fines, charges, or other amounts applicable under section 39.22 to 39.37 or Chapter 5703 of the Ohio Revised Code to the corporation, an affiliated group of which the

corporation is a member for any portion of the taxable year, or any one or more members of such an affiliated group.

39.29 FAILURE TO PAY TAX.

If a taxpayer that has made the election allowed under section 39.22 fails to pay any tax as required under sections 39.22 to 39.37, or any portion of that tax, on or before the date prescribed for its payment, interest shall be assessed, collected, and paid, in the same manner as the tax, upon such unpaid amount at the rate per annum prescribed by R.C. 5703.47 from the date prescribed for its payment until it is paid or until the date an assessment is issued under section 39.32, whichever occurs first.

39.30 DECLARATION OF ESTIMATED TAXES.

(A) As used in this section:

(1) "Combined tax liability" means the total amount of a taxpayer's income tax liabilities to all municipal corporations in this state for a taxable year.

(2) "Estimated taxes" means the amount that the taxpayer reasonably estimates to be the taxpayer's combined tax liability for the current taxable year.

(B)

(1) Except as provided in division (B)(4) of this section, every taxpayer shall make a declaration of estimated taxes for the current taxable year, on the form prescribed by the Tax Commissioner, if the amount payable as estimated taxes is at least two hundred dollars.

(2) Except as provided in division (B)(4) of this section, a taxpayer having a taxable year of less than twelve months shall make a declaration under rules prescribed by the Tax Commissioner.

(3) The declaration of estimated taxes shall be filed on or before the fifteenth day of the fourth month after the beginning of the taxable year or on or before the fifteenth day of the fourth month after the taxpayer becomes subject to tax for the first time.

(4) The Tax Commissioner may waive the requirement for filing a declaration of estimated taxes for any class of taxpayers after finding that the waiver is reasonable and proper in view of administrative costs and other factors.

(C) Each taxpayer shall file the declaration of estimated taxes with, and remit estimated taxes to, the Tax Commissioner at the times and in the amounts prescribed in division (C)(1) of this section. Remitted taxes shall be made payable to the treasurer of state.

(1) The required portion of the combined tax liability for the taxable year that shall be paid through estimated taxes shall be as follows:

(a) On or before the fifteenth day of the fourth month after the beginning of the taxable year, twenty-two and one-half percent of the combined tax liability for the taxable year;

(b) On or before the fifteenth day of the sixth month after the beginning of the taxable year, forty-five percent of the combined tax liability for the taxable year;

(c) On or before the fifteenth day of the ninth month after the beginning of the taxable year, sixty-seven and one-half percent of the combined tax liability for the taxable year;

(d) On or before the fifteenth day of the twelfth month of the taxable year, ninety percent of the combined tax liability for the taxable year.

(2) If the taxpayer determines that its declaration of estimated taxes will not accurately reflect the taxpayer's tax liability for the taxable year, the taxpayer shall increase or decrease, as appropriate, its subsequent payments in equal installments to result in a more accurate payment of estimated taxes.

(3)

(a) Each taxpayer shall report on the declaration of estimated taxes the portion of the remittance that the taxpayer estimates that it owes to each municipal corporation for the taxable year.

(b) Upon receiving a payment of estimated taxes under this section, the Tax Commissioner shall immediately forward the payment to the Treasurer of State. The Treasurer shall credit the payment in the same manner as in division (B) of R.C. 718.85.

(D)

(1) In the case of any underpayment of estimated taxes, there shall be added to the taxes an amount determined at the rate per annum prescribed by R.C. 5703.47 upon the amount of underpayment for the period of underpayment, unless the underpayment is due to reasonable cause as described in division (E) of this section. The amount of the underpayment shall be determined as follows:

(a) For the first payment of estimated taxes each year, twenty-two and one-half percent of the combined tax liability, less the amount of taxes paid by the date prescribed for that payment;

(b) For the second payment of estimated taxes each year, forty-five percent of the combined tax liability, less the amount of taxes paid by the date prescribed for that payment;

(c) For the third payment of estimated taxes each year, sixty-seven and one-half percent of the combined tax liability, less the amount of taxes paid by the date prescribed for that payment;

(d) For the fourth payment of estimated taxes each year, ninety percent of the combined tax liability, less the amount of taxes paid by the date prescribed for that payment.

(2) The period of the underpayment shall run from the day the estimated payment was required to be made to the date on which the payment is made. For purposes of this section, a payment of estimated taxes on or before any payment date shall be considered a payment of any previous underpayment only to the extent the payment of estimated taxes exceeds the amount of the payment presently due.

(3) All amounts collected under this section shall be considered as taxes collected under sections 39.22 to 39.37 and shall be credited and distributed to municipal corporations in accordance with R.C. 718.83 .

(E) An underpayment of any portion of a combined tax liability shall be due to reasonable cause and the penalty imposed by this section shall not be added to the taxes for the taxable year if any of the following apply:

(1) The amount of estimated taxes that were paid equals at least ninety percent of the combined tax liability for the current taxable year, determined by annualizing the income received during the year up to the end of the month immediately preceding the month in which the payment is due.

(2) The amount of estimated taxes that were paid equals at least one hundred percent of the tax liability shown on the return of the taxpayer for the preceding taxable year, provided that the immediately preceding taxable year reflected a period of twelve months and the taxpayer filed a municipal income tax return for that year.

39.31 ADDITIONAL PENALTIES.

(A) In addition to any other penalty imposed by sections 39.22 to 39.37 or R.C. Chapter 5703, the following penalties shall apply:

(1) If a taxpayer required to file a tax return under sections 39.22 to 39.37 fails to make and file the return within the time prescribed, including any extensions of time granted by the Tax Commissioner, the Tax Commissioner may impose a penalty not exceeding twenty-five dollars per month or fraction of a month, for each month or fraction of a month elapsing between the due date, including extensions of the due date, and the date on which the return is filed. The aggregate penalty, per instance, under this division shall not exceed one hundred fifty dollars.

(2) If a person required to file a tax return electronically under sections 39.22 to 39.37 fails to do so, the Tax Commissioner may impose a penalty not to exceed the following:

(a) For each of the first two failures, five percent of the amount required to be reported on the return;

(b) For the third and any subsequent failure, ten percent of the amount required to be reported on the return.

(3) If a taxpayer that has made the election allowed under section 39.22 fails to timely pay an amount of tax required to be paid under this chapter, the Tax Commissioner may impose a penalty equal to fifteen percent of the amount not timely paid.

(4) If a taxpayer files what purports to be a tax return required by sections 39.22 to 39.37 that does not contain information upon which the substantial correctness of the return may be judged or contains information that on its face indicates that the return is substantially incorrect, and the filing of the return in that manner is due to a position that is frivolous or a desire that is apparent from the return to delay or impede the administration of sections 39.22 to 39.37 of the Beavercreek Codified Ordinances, a penalty of up to five hundred dollars may be imposed.

(5) If a taxpayer makes a fraudulent attempt to evade the reporting or payment of the tax required to be shown on any return required under sections 39.22 to 39.37, a penalty may be imposed not exceeding the greater of one thousand dollars or one hundred percent of the tax required to be shown on the return.

(6) If any person makes a false or fraudulent claim for a refund under section 39.33, a penalty may be imposed not exceeding the greater of one thousand dollars or one hundred percent of the claim. Any penalty imposed under this division, any refund issued on the claim, and interest on any refund from the date of the refund, may be assessed under section 39.32 without regard to any time limitation for the assessment imposed by division (A) of that section.

(B) For purposes of this section, the tax required to be shown on a tax return shall be reduced by the amount of any part of the tax paid on or before the date, including any extensions of the date, prescribed for filing the return.

(C) Each penalty imposed under this section shall be in addition to any other penalty imposed under this section. All or part of any penalty imposed under this section may be abated by the Tax Commissioner. The Tax Commissioner may adopt rules governing the imposition and abatement of such penalties.

(D) All amounts collected under this section shall be considered as taxes collected under sections 39.22 to 39.37 and shall be credited and distributed to municipal corporations in the same proportion as the underlying tax liability is required to be distributed to such municipal corporations under R.C. 718.83.

39.32 ASSESSMENTS AGAINST TAXPAYER.

(A) If any taxpayer required to file a return under section 39.22 to 39.37 fails to file the return within the time prescribed, files an incorrect return, or fails to remit the full amount of the tax due for the period covered by the return, the Tax Commissioner may make an assessment against the taxpayer for any deficiency for the period for which the return or tax is due, based upon any information in the Tax Commissioner's possession.

The Tax Commissioner shall not make or issue an assessment against a taxpayer more than three years after the later of the date the return subject to assessment was required to be filed or the date

the return was filed. Such time limit may be extended if both the taxpayer and the Tax Commissioner consent in writing to the extension. Any such extension shall extend the three-year time limit in section 39.33 for the same period of time. There shall be no bar or limit to an assessment against a taxpayer that fails to file a return subject to assessment as required by sections 39.22 to 39.37, or that files a fraudulent return. The Tax Commissioner shall give the taxpayer assessed written notice of the assessment as provided in R.C. 5703.37. With the notice, the Tax Commissioner shall provide instructions on how to petition for reassessment and request a hearing on the petition.

(B) Unless the taxpayer assessed files with the Tax Commissioner within sixty days after service of the notice of assessment, either personally or by certified mail, a written petition for reassessment signed by the authorized agent of the taxpayer assessed having knowledge of the facts, the assessment becomes final, and the amount of the assessment is due and payable from the taxpayer to the treasurer of state. The petition shall indicate the taxpayer's objections, but additional objections may be raised in writing if received by the Tax Commissioner prior to the date shown on the final determination. If the petition has been properly filed, the Tax Commissioner shall proceed under R.C. 5703.60.

(C) After an assessment becomes final, if any portion of the assessment remains unpaid, including accrued interest, a certified copy of the Tax Commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the taxpayer has an office or place of business in this state, the county in which the taxpayer's statutory agent is located, or Franklin county.

Immediately upon the filing of the entry, the clerk shall enter a judgment against the taxpayer assessed in the amount shown on the entry. The judgment may be filed by the clerk in a loose-leaf book entitled "special judgments for municipal income taxes," and shall have the same effect as other judgments. Execution shall issue upon the judgment upon the request of the Tax Commissioner, and all laws applicable to sales on execution shall apply to sales made under the judgment.

If the assessment is not paid in its entirety within sixty days after the day the assessment was issued, the portion of the assessment consisting of tax due shall bear interest at the rate per annum prescribed by R.C. 5703.47 from the day the Tax Commissioner issues the assessment until the assessment is paid or until it is certified to the attorney general for collection under R.C. 131.02, whichever comes first. If the unpaid portion of the assessment is certified to the Attorney General for collection, the entire unpaid portion of the assessment shall bear interest at the rate per annum prescribed by R.C. 5703.47 from the date of certification until the date it is paid in its entirety. Interest shall be paid in the same manner as the tax and may be collected by issuing an assessment under this section.

(D) All money collected under this section shall be credited to the municipal income tax fund and distributed to the municipal corporation to which the money is owed based on the assessment issued under this section.

(E) If the Tax Commissioner believes that collection of the tax will be jeopardized unless proceedings to collect or secure collection of the tax are instituted without delay, the Tax Commissioner may issue a jeopardy assessment against the taxpayer liable for the tax. Immediately upon the issuance of the jeopardy assessment, the Tax Commissioner shall file an entry with the clerk of the court of common pleas in the manner prescribed by division (C) of this section. Notice of the jeopardy assessment shall be served on the taxpayer assessed or the taxpayer's legal representative in the manner provided in R.C. 5703.37 within five days of the filing of the entry with the clerk. The total amount assessed is immediately due and payable, unless the taxpayer assessed files a petition for reassessment in accordance with division (B) of this section and provides security in a form satisfactory to the Tax Commissioner and in an amount sufficient to satisfy the unpaid balance of the assessment. Full or partial payment of the assessment does not prejudice the Tax Commissioner's consideration of the petition for reassessment.

(F) Notwithstanding the fact that a petition for reassessment is pending, the taxpayer may pay all or a portion of the assessment that is the subject of the petition. The acceptance of a payment by the treasurer of state does not prejudice any claim for refund upon final determination of the petition.

If upon final determination of the petition an error in the assessment is corrected by the Tax Commissioner, upon petition so filed or pursuant to a decision of the Board of Tax Appeals or any court to which the determination or decision has been appealed, so that the amount due from the taxpayer under the corrected assessment is less than the portion paid, there shall be issued to the taxpayer, its assigns, or legal representative a refund in the amount of the overpayment as provided by section 39.33, with interest on that amount as provided by that section.

39.33 REFUND APPLICATIONS.

(A) An application to refund to a taxpayer the amount of taxes paid on any illegal, erroneous, or excessive payment of tax under sections 39.22 to 39.37, including assessments, shall be filed with the Tax Commissioner within three years after the date of the illegal, erroneous, or excessive payment of the tax, or within any additional period allowed by division (A) of section 39.33. The application shall be filed in the form prescribed by the Tax Commissioner.

(B)

(1) On the filing of a refund application, the Tax Commissioner shall determine the amount of refund to which the applicant is entitled. The amount determined shall be based on the amount overpaid per return or assessment. If the amount is greater than ten dollars and not less than that claimed, the Tax Commissioner shall certify that amount to the Director of Budget and Management and the Treasurer of State for payment from the tax refund fund created in R.C. 5703.052. If the amount is greater than ten dollars but less than that claimed, the Tax Commissioner shall proceed in accordance with R.C. 5703.70.

(2) Upon issuance of a refund under this section, the Tax Commissioner shall notify each municipal corporation of the amount refunded to the taxpayer attributable to that municipal corporation, which shall be deducted from the municipal corporation's next distribution under R.C. 718.83.

(C) Any portion of a refund determined under division (B) of this section that is not issued within ninety days after such determination shall bear interest at the rate per annum prescribed by R.C. 5703.47 from the ninety-first day after such determination until the day the refund is paid or credited. On an illegal or erroneous assessment, interest shall be paid at that rate from the date of payment on the illegal or erroneous assessment until the day the refund is paid or credited.

39.34 AMENDED RETURNS.

(A) If any of the facts, figures, computations, or attachments required in an annual return filed by a taxpayer that has made the election allowed under section 39.22 and used to determine the tax due under sections 39.22 to 39.37 must be altered as the result of an adjustment to the taxpayer's federal income tax return, whether initiated by the taxpayer or the Internal Revenue Service, and such alteration affects the taxpayer's tax liability under those sections, the taxpayer shall file an amended return with the Tax Commissioner in such form as the Tax Commissioner requires. The amended return shall be filed not later than sixty days after the adjustment is agreed upon or finally determined for federal income tax purposes or after any federal income tax deficiency or refund, or the abatement or credit resulting therefrom, has been assessed or paid, whichever occurs first. If a taxpayer intends to file an amended consolidated municipal income tax return, or to amend its type of return from a separate return to a consolidated return, based on the taxpayer's consolidated federal income tax return, the taxpayer shall notify the Tax Commissioner before filing the amended return.

(B) In the case of an underpayment, the amended return shall be accompanied by payment of any combined additional tax due together with any penalty and interest thereon. An amended return required by this section is a return subject to assessment under section 39.32 for the purpose of assessing any additional tax due under this section, together with any applicable penalty and interest. The amended return shall not reopen those facts, figures, computations, or attachments from a previously filed return no longer subject to assessment that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal tax return.

(C) In the case of an overpayment, an application for refund may be filed under this division within the sixty-day period prescribed for filing the amended return, even if that period extends beyond the period prescribed in section 39.33, if the application otherwise conforms to the requirements of that section. An application filed under this division shall claim refund of overpayments resulting from alterations to only those facts, figures, computations, or attachments required in the taxpayer's annual return that are affected, either directly or indirectly, by the adjustment to the taxpayer's federal income tax return unless it is also filed within the time prescribed in section 39.33. The application shall not reopen those facts, figures, computations, or attachments that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal income tax return.

39.35 EXAMINATION OF RECORDS AND OTHER DOCUMENTS AND PERSONS.

(A) The Tax Commissioner, or any authorized agent or employee thereof, may examine the books, papers, records, and federal and state income tax returns of any taxpayer or other person that is

subject to sections 39.22 to 39.37 for the purpose of verifying the accuracy of any return made or, if no return was filed, to ascertain the tax due as required under those sections. Upon written request by the Tax Commissioner or a duly authorized agent or employee thereof, every taxpayer or other person subject to this section is required to furnish the opportunity for the Tax Commissioner, authorized agent, or employee to investigate and examine such books, papers, records, and federal and state income tax returns at a reasonable time and place designated in the request.

(B) The records and other documents of any taxpayer or other person that is subject to sections 39.22 to 39.37 of the Beavercreek Codified Ordinances shall be open to the Tax Commissioner's inspection during business hours and shall be preserved for a period of six years following the end of the taxable year to which the records or documents relate, unless the Tax Commissioner, in writing, consents to their destruction within that period, or by order requires that they be kept longer. The Tax Commissioner may require any person, by notice served on that person, to keep such records as the Tax Commissioner determines necessary to show whether or not that person is liable, and the extent of such liability, for the income tax levied by a municipal corporation.

(C) The Tax Commissioner may examine under oath any person that the Tax Commissioner reasonably believes has knowledge concerning any income that was or would have been returned for taxation or any transaction tending to affect such income. The Tax Commissioner may, for this purpose, compel any such person to attend a hearing or examination and to produce any books, papers, records, and federal income tax returns in such person's possession or control. The person may be assisted or represented by an attorney, accountant, bookkeeper, or other tax practitioner at any such hearing or examination. This division does not authorize the practice of law by a person who is not an attorney.

(D) No person issued written notice by the Tax Commissioner compelling attendance at a hearing or examination or the production of books, papers, records, or federal income tax returns under this section shall fail to comply.

39.36 CREDITS.

(A) A credit, granted by resolution or ordinance of the City of Beavercreek pursuant to section 39.064 or 39.065, shall be available to a taxpayer that has made the election allowed under section 39.22, against the municipal corporation's tax on income. A municipal corporation shall submit the following information to the Tax Commissioner on or before the later of January 31, 2018, or the thirty-first day of January of the first year in which the taxpayer is eligible to receive the credit:

(1) A copy of the agreement entered into by the City of Beavercreek and taxpayer under section 39.064 or 39.065;

(2) A copy of the ordinance or resolution authorizing the agreement entered into between the City of Beavercreek and the taxpayer.

(B)

(1) Each taxpayer that claims a credit shall submit, with the taxpayer's tax return, documentation issued by the City of Beavercreek granting the credit that confirms the eligibility of the taxpayer for the credit, the amount of the credit for which the taxpayer is eligible, and the tax year to which the credit is to be applied.

(2) Such documentation shall be provided in the form prescribed by the Tax Commissioner.

(3) Nothing in this section shall be construed to authorize the Tax Commissioner to enter into an agreement with a taxpayer to grant a credit, to determine if a taxpayer meets the conditions of a tax credit agreement entered into by the City of Beavercreek and taxpayer under section 39.064 or 39.065, or to modify the terms or conditions of any such existing agreement.

39.37 RECKLESS VIOLATIONS; PENALTIES.

(A) Except as provided in division (B) of this section, whoever recklessly violates division (A) of section 39.25 shall be guilty of a misdemeanor of the first degree and shall be subject to a fine of not more than one thousand dollars or imprisonment for a term of up to six months, or both.

(B) Each instance of access or disclosure in violation of division (A) of section 39.25 constitutes a separate offense.

(C) These specific penalties shall not be construed to prevent the City of Beavercreek from prosecuting any and all other offenses that may apply.

39.97 COLLECTION AFTER TERMINATION OF CHAPTER.

(A) This chapter shall continue in full force and effect insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions and proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue in full force and effect until all of the taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of taxes or for the punishment of violations of this chapter have been fully terminated, subject to the limitations contained in section 39.19 of this chapter.

(B) Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in section 39.091 of this chapter as though the same were continuing.

39.98 SAVINGS CLAUSE.

If any sentence, clause, section or part of this chapter, or any tax imposed against, or exemption from tax granted to, any taxpayer or forms of income specified herein is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall affect only such clause, sentence, section or part of this chapter so found and shall not affect or impair

any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of the legislative authority of the municipality that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included in this chapter.

39.99 VIOLATIONS; PENALTY.

(A) Except as provided in division (B) of this section, whoever violates section 39.15 of this chapter, division (A) of section 39.14 of this chapter, or section 39.051 of this chapter by failing to remit municipal income taxes deducted and withheld from an employee, shall be guilty of a misdemeanor of the first degree and shall be subject to a fine of not more than one thousand dollars or imprisonment for a term of up to six months, or both. In addition, the violation is punishable by dismissal from office or discharge from employment, or both.

(B) Any person who discloses information received from the Internal Revenue Service in violation of Internal Revenue Code Sec. 7213(a), 7213A, or 7431 shall be guilty of a felony of the fifth degree and shall be subject to a fine of not more than five thousand dollars plus the costs of prosecution, or imprisonment for a term not exceeding five years, or both. In addition, the violation is punishable by dismissal from office or discharge from employment, or both.

(C) Each instance of access or disclosure in violation of division (A) of section 39.14 of this chapter constitutes a separate offense.

(D) Whoever commits the following violations of this chapter is guilty of a misdemeanor of the first degree and shall be subject to a fine of not more than one thousand dollars or imprisonment for a term of up to six months, or both.

- (1) Fail, neglect or refuse to make any return or declaration required by this chapter; or
- (2) Knowingly make any incomplete return; or
- (3) Willfully fail, neglect, or refuse to pay the tax, penalties, and interest, or any combination thereof, imposed by this chapter; or
- (4) Cause to not be remitted the city income tax withheld from qualifying wages of employees to the municipality municipal corporation as required by section 39.051; or
- (5) Neglect or refuse to withhold or remit municipal income tax from employees; or
- (6) Refuse to permit the Tax Administrator or any duly authorized agent or employee to examine his or her books, records, papers, federal and state income tax returns, or any documentation relating to the income or net profits of a taxpayer; or
- (7) Fail to appear before the Tax Administrator and to produce his or her books, records, papers, federal and state income tax returns, or any documentation relating to the income or net profits of a taxpayer upon order or subpoena of the Tax Administrator; or
- (8) Refuse to disclose to the Tax Administrator any information with respect to such person's income or net profits, or in the case of a person responsible for maintaining information relating to his or her employers' income or net profits, such person's employer's income or net profits; or
- (9) Fail to comply with the provisions of this chapter or any order or subpoena of the Tax Administrator; or

(10) To avoid imposition or collection of municipal income tax, willfully give to an employer or prospective employer false information as to his or her true name, correct social security number and residence address, or willfully fail to promptly notify an employer or a prospective employer of any change in residence address and date thereof; or

(11) Fail, as an employer, agent of an employer, or other payer, to maintain proper records of an employee's residence addresses, total qualifying wages paid and municipal tax withheld, or to knowingly give the Tax Administrator false information; or

(12) Willfully fail, neglect, or refuse to make any payment of estimated municipal income tax for any taxable year or any part of any taxable year in accordance with this chapter; or

(13) Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter.

(E) For purposes of this section, any violation that does not specify a culpable mental state or intent, shall be one of strict liability and no culpable mental state or intent shall be required for a person to be guilty of that violation.

(F) For purposes of this section, the term "person" shall, in addition to the meaning prescribed in section 39.03, include in the case of a corporation, association, pass-through entity or unincorporated business entity not having any resident owner or officer within the City, any employee or agent of such corporation, association, pass-through entity or unincorporated business entity who has control or supervision over or is charged with the responsibility of filing the municipal income tax returns and making the payments of the municipal income tax as required by this chapter.

(G) For purposes of this section, the failure of any employer, agent of the employer, other payer, taxpayer, or person to receive or procure a return, declaration, or other required form shall not be an excuse from filing such information return, declaration, or other required form, or from paying tax.

**CITY OF BEAVERCREEK
CITY COUNCIL
AGENDA ITEM REPORT**

PEL

Meeting Date: July 27, 2020 Agenda Reference No.: X. C.	Reference Topic: CARES Act Grant Agreement with Greene County Resolution 20-18
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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 Motion _____

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

BACKGROUND AND STAFF SUMMARY:

The City received \$557,475 in CARES funding, distributed by the State of Ohio from Federal funding to the counties. The Ohio counties distributed the CARES funding through the Local Government Fund distribution process. The Greene County Department of Development, with approval of the Greene County Board of Commissioners, have developed grant funding criteria to utilize the CARES funding to assist small businesses during the COVID-19 pandemic. With the City of Beavercreek's share of the CARES funding, the City is able to join the Greene County CARES grant program. After determining City COVID-19 allowable expenses, staff has determined that the City can contribute (amount to be determined) to the Greene County CARES grant program. The County will utilize the CARES funding provided by the City to distribute grant funds to only businesses within the City of Beavercreek.

STAFF RECOMMENDATION: Staff recommends approval authorizing the City Manager to enter into the agreement with Greene County through approval of Resolution 20-18.

CITY OF BEAVERCREEK

RESOLUTION NO. 20-18

SPONSORED BY COUNCIL MEMBER _____ ON THE 27TH DAY OF JULY, 2020.

A RESOLUTION TO AUTHORIZE THE CITY MANAGER TO ENTER INTO A PARTNERSHIP AGREEMENT WITH GREENE COUNTY, OHIO FOR THE PURPOSE OF PROVIDING FINANCIAL ASSISTANCE AND RELIEF TO SMALL BUSINESSES WITHIN THE CITY OF BEAVERCREEK FROM THE COVID-19 PANDEMIC THROUGH THE CARES GRANT TO BE ADMINISTERED BY GREENE COUNTY

WHEREAS, Greene County has been authorized to make grants to political subdivisions within Greene County for the purpose of reimbursing political subdivisions for costs incurred, because of, and directly relating to the ongoing Coronavirus Pandemic as declared by the Federal Government; and

WHEREAS, a stated purpose of these grant funds is to reimburse small businesses, with less than 50 employees, hereinafter called the CARES Grant for Greene County Small Businesses, (Grant) up to \$10,000 for costs directly relating to the closure of such businesses as ordered by the State of Ohio (State); and for costs directly related to the reopening of said businesses in a safe manner as directed by the State; and

WHEREAS, Greene County has administered grant funds for the City of Beavercreek in the past, and Greene County and the City of Beavercreek desire for the County to administer these Grant funds for the purposes of providing financial assistance to small businesses within the City of Beavercreek affected by the Coronavirus Pandemic; and

WHEREAS, Greene County, through the Greene County Department of Development, has agreed to provide services for the Grant from August 1, 2020, through October 31, 2020, or until the Grant officially ends; and

WHEREAS, the intent of the parties is to set forth their understanding concerning the County's Scope of Work for the City of Beavercreek in administering the Grant and Grant funds through this Partnership Agreement with Greene County.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF BEAVERCREEK, STATE OF OHIO:

SECTION I: City Council hereby authorizes the City Manager to execute the Partnership Agreement, attached hereto and incorporated herein as Exhibit A, to accept future revisions to the program as promulgated by Greene County, and to take any other action required on behalf of the City of Beavercreek to authorize Greene County to manage

the Grant and provide support to the City for all issues regarding the Grant.

SECTION II:

City Council hereby authorizes the City Manager to commit _____ of the City of Beavercreek's CARES Act Grant funds towards the Grant in accordance with the CARES Act Partnership Agreement.

SECTION III.

The City of Beavercreek affirms that Greene County will act as the administrator of the Grant on behalf of the City by assuming the following responsibilities:

- (1) Provide support to the City of Beavercreek for all issues regarding the Grant, and acting on behalf of the City in carrying out Grant requirements within the regulations for the Grant;
- (2) Manage the process and activity of procuring qualified small business applicants for the Grant;
- (3) Manage and maintain a tracking system of individual small business applicants on behalf of the City of Beavercreek to ensure proper expenditure of funds and fund-accounting;
- (4) Ensure and facilitate Grants to small businesses as allowed in Amended Substitute Senate Bill 310 (H.B. 481) on behalf of the City of Beavercreek;
- (5) Manage the application process by handling the application approval process and insuring proper expenditures under the Grant's regulations;
- (6) Oversee the Grant Agreements and payments under the Grant on behalf of the City of Beavercreek;
- (7) Manage the Grant by executing agreements or causing agreements to be executed and obtaining paperwork for any reimbursed expenses within the Grant requirements; and
- (8) Monitor Grant activity, including all required applications, agreements, and other required documentation prior to, during, and upon completion of the Grant.

SECTION IV.

In compliance with the Partnership Agreement, be it resolved by the Council of the City of Beavercreek that the City shall take all necessary action to:

- (1) Adopt Greene County's policies and procedures related to the Grant administration;
- (2) City of Beavercreek staff will supply the Greene County Department of Development any applications for the Grant received by the City; and
- (3) The City of Beavercreek understands the Grant rules and regulations and agrees it will not make small business grants to any businesses independently.

SECTION V: The City of Beavercreek affirms that the City is compliant with Section 5001 of the Federal Coronavirus Aid, Relief, and Economic Security (CARES) Act and House Bill 481 (H.B. 481) of the 133rd General Assembly of the State of Ohio.

SECTION VI: The City of Beavercreek recognizes and acknowledges that the Partnership Agreement will remain in effect until the Grant funds are expended and the Grant-funded activities are complete.

SECTION VII: 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 VIII: This Resolution shall take effect and be in full force from and after the date of its passage.

PASSED this 27th day of July, 2020.

Bob Stone, Mayor

ATTEST:

Dianne Miscisin, Clerk of Council

PREPARED BY: CITY ATTORNEY

SUMMARY

A RESOLUTION TO AUTHORIZE THE CITY MANAGER TO ENTER INTO A PARTNERSHIP AGREEMENT WITH GREENE COUNTY, OHIO FOR THE PURPOSE OF PROVIDING FINANCIAL ASSISTANCE TO SMALL BUSINESSES THROUGH THE CARES GRANT FOR GREENE COUNTY SMALL BUSINESSES TO PROVIDE RELIEF FROM THE COVID-19 PANDEMIC

Inter-Office Memorandum

July 21, 2020

To: Pete Landrum, City Manager
Mayor Stone, Vice Mayor Adams and City Council Members

From: Bill Kucera, Financial Administrative Services Director 

Subject: Financial Analysis – Second Quarter 2020

Attached you will find a “Summary of Revenue and Expenditures” report that the Finance Department generates quarterly to monitor the budget. This report (Exhibit 1) illustrates the revenue and the expenditures received or incurred in the second quarter of 2020.

This high level review is designed to provide you a quick glance of the City’s revenues and expenditures to assist in monitoring the financial condition of the City. Included with this report is the 2020 amended budget (amended means it includes additional appropriations and certified revenue approved by Council after the initial appropriation ordinance was passed in December 2019), along with year-to-date revenues and expenditures. I think it is important to not only compare the 2020 totals to the total budget, but to compare 2020 with the 2019 year to date numbers.

Below I have highlighted some areas that have significant variances between either what was budgeted compared to actual or in comparison to last year’s revenues and expenditures (See Exhibit 1). You will note that only the major funds are depicted in this review.

General Fund:

Revenues:

Property Tax Revenue: The City received its first property tax settlement. Based on the County Auditor’s conservative estimates and the collection of delinquent taxes, the City received \$755k or \$3k more than last year representing a .3% increase.

Interest Revenue: Year to date revenue is \$80.9k, which is \$68.5k or 45.8% less than last year and only 34% of the \$235k budget. This decrease was anticipated in this years budgeted revenue with the potential for the interest rates decreasing and reduction of investable fund balances. However, the steep decline in March was the result of the Federal Reserve lowering interest rates to zero, which directly resulted in decreasing yields at Star Ohio, where the interest rate decreased from 2.55% last year to .5% this year. Attached is (Exhibit 4), which is the second quarter recap of all investments for your review.

Other Revenues/Transfers: Interfund transfer revenue decreased by \$733k, which was the result of clearing the “Due to Due From” from the golf course last year (\$964k). During the second quarter, the \$250k advance provided to the Street Fund from the General Fund was transferred back to the General fund when the City received the first installment of the FEMA reimbursement from the initial clean-up phase of the Tornado event. Interesting enough, the Local Government Fund (LGF) allocation to the City the second quarter was \$277.9k or \$58.5k or 26.7% more than last year. This revenue source began increasing in July 2019 when the State reallocated LGF funds that we directed to the “Addiction Assistance Fund”. This allocation was no longer necessary when the pharmaceutical firms, related to the opioid crisis, settled with the State. This has generated more than enough revenue to offset the 25% decrease in the normal LGF distribution the City would have normally experienced if this allocation was not eliminated. This additional distribution is set to expire June 30, 2021. Therefore, the effects of the LGF revenue will not be felt until after the sunset of the new allocation.

Expenditures:

As noted in the year to date column of Exhibit 1, total expenditures for the General Fund were at 41%. Finance was at 54% of the 2020 budget and \$27k over last year of a retirement payout for a tenured employee. City Council was under the 50% threshold but \$16k over last year due to the new Council pay structure that was implemented in the beginning of the year.

Police Fund:

Revenues:

The City received \$4.4m in property taxes, which was \$15.8k or .4% less than last year.

Intergovernmental Revenue: Intergovernmental revenue appears higher based on the fact the Township payment for \$116k for the fire dispatch agreement was paid in January as opposed to being paid in December per the agreement.

Charges for Services: The same timing issue appeared with the \$91k, School Resource Officer payment from the school. Last year the payment was made in January and this year the payment was received in December per the agreement. Court fees decreased by \$6k since the courts were closed for a period of time as a result of the pandemic. Although revenue is less, the City pays all revenue back to the court per the ORC and therefore, the corresponding expenses decreased by the same amount.

Other Revenue: The City received the Bureau of Workers Compensation \$172k payback during the second quarter of the year. This covered the plan year 2018 and was distributed to the funds based each funds payroll proportionate percentage to the entire City payroll. The Police fund received 51% or \$88.2k of these funds, which was deposited into the Refunds and Reimbursement revenue for future use. This allocation was also noted in all the major funds, which have payroll cost in 2018.

Expenditures:

Police Department expenditures were 45% of the 2020 budget. All divisions were below the 50% budget benchmark except for Off Duty expenditures was \$65k, which is a significant increase over last year. This was the result of fourth quarter security events at the major retailers who were billed timely but did not pay until FY 2020, therefore, making the revenue seem unproportionate to the activity in 2020. Overall the Department is operating within the budget for the second quarter of the year.

Another critical item that we continue to monitor is overtime and compensatory time (See Overtime and Comp Time Analysis, Exhibit 3). Police overtime has actually decreased by \$11k (or 6.4%) compared to last year's total and represents 43.7% of the annual budget benchmark at 50% for the second quarter of the year. The majority of this increase was related to Special Duty assignments, which the City has an agreement with various vendors and are reimbursed per the agreement totaling \$53k year to date. Compensatory (comp) time hours accrued increased 48 or 3.5% more when compared to the same period last year. So overtime and comp time are within the budget for the first half of the year.

Street Levy Fund:

Revenues:

In 2020, the City received the first half of property taxes totaling \$2.9m in property taxes, which was \$1k less than collected last year in the second quarter. The City received the first installment of the FEMA and Ohio EMA reimbursement for the first phase of expenditures related to the debris clean-up. Per ORC, these funds must be received into the FEMA fund and then were transferred to the fund that generated the expenditures in this case the Street Levy fund. The first installment representing 75% reimbursement from FEMA and 12.5% from the State EMA was received in this first quarter of 2020. The total reimbursement

for this phase was \$818.k. These funds were subsequently certified as revenue for this fund and the appropriate transfers were made between the funds and the General Fund noted below.

Expenditures:

Overall, operating expenditures were 43% of the 2020 budget, a \$604k or 43% increase from last year. This related to the final phase of the chipping and transporting of the debris in the first quarter of 2020. The amounts spent on this final phase totaled \$329k and was submitted to FEMA for reimbursement in March. These funds were spent from the Street Maintenance division. It should be noted the City was required to budget for a not to exceed amount in the 2020 budget based on the request for proposal and the budget was established at \$1.5m. However, because of timing, and lack of natural disasters in other areas of the country, the City received very favorable prices from vendors to perform this project and therefore actual costs came in much lower than anticipated. Because of the federal and state reimbursements received in February, the City was able to transfer the \$250k advance provided by the General Fund to the Street Levy Fund back to the General Fund, thereby increasing the overall expenditures in the first quarter in this fund. Snow & Ice Control is also showing a \$99k increase over last year as a result of salt purchases that were made in 2019 but not paid until 2020 (\$176k).

This season the City had 14 snow/ice events (November through April) compared to 12 events last year. This year's snow events resulted in the use of 3,207 tons of salt compared to last year's usage of 4,263 tons. This represents a decrease of 1,056 tons of salt. If you recall the City, as part of the 2018/2019 bid process, had to guarantee the purchase of 8,000 tons of salt, which filled our barn to capacity to cover future winter events. Although there were a few less events, the storms in 2019 season were more intense and longer. This resulted in a significant decrease use of overtime in the Street Levy Fund. To date the overtime was only \$36.3k which is a \$141k or 80% decrease over 2019 (See Exhibit 3). This is further evidenced by the decrease in comp time totaling 1,091 hours accrued this year compared to 1,706 last year, which represents a 615 hour or 36% decrease.

There is \$2.6m budgeted for capital improvements. Of that, only \$650k has been spent or recorded in the second quarter of 2020.

Street Maintenance (204) & State Highway Fund (205):

Revenues:

The Street Maintenance Fund (Fund 204) receives the majority of its funding from gasoline taxes and license fees. This year the City received \$1.15m, which is \$377k more than last year as a result of the State increasing the gas tax effective July 2019. Although this increase was budgeted, the effects of the State stay at home order effective mid-March is having a significant effect on this revenue source in April and will continue throughout the remainder of the year. The City had budgeted for the increase in the 2020 budget with approximately \$218k more month. With the stay at home order and continued decrease in consumption the average monthly totals are \$177k therefore a budget shortfall of approximately \$40k is anticipated per month until consumption resumes to before pandemic levels.

Expenditures:

The City budgets for an average winter event season. The City this year budgeted approximately \$529.4k in salt product for 2020. Based on the 2019-20 bid, the City was not required to guarantee a set purchase amount and the price remained the same as 2018-19 cost. Although the City did purchased \$132k of salt in 2020 it was part of the carryover purchase order from 2019. No additional salt was necessary to purchase this year. To date, the City has not spent any of the 2020 budgeted amount on salt. In addition, this same relationship holds true for fuel purchases along with the reduction in gas prices related to COVID-19. Fuel purchases were \$61k less when comparing March through June this year to last year. The volume and gas prices will continue to be depressed for at least the third quarter. With the stay at home order, reduction in

staffing, and low gas prices (several purchases were made for less than \$1 per gallon) these line items should continue to show savings throughout the year somewhat offsetting the negative impacts of the reduced gas taxes.

Street Capital Improvement Fund (260):

The City received the first half settlement of property taxes for this levy, totaling \$1.4m, which represents a \$14k or 1% increase over 2019. Expenditures in the second quarter relate to the carryover of projects and payments from the 2019 capital improvement program as the 2020 projects are being bid and will be implemented more heavily in the third quarter of 2020.

Recreation Levy Fund (279):

The City received the first half settlement of property taxes for this levy totaling \$859k, which represents a \$226k or 35.7% increase over 2019. This relates to the increased millage from the May 2019 levy initiative that increased the Park levy millage from .9 to 1.2 mills. Fourth of July contributions were received, refunded and new sponsors were located to offset the cost of the 4th City celebration. Charges for Services revenue (park programming, senior center events, etc.) was only \$188k or \$66k less than last year as a direct result of the pandemic response. This lost revenue was somewhat offset by the reduction of staffing and operating costs. For the recreation and senior services, expenses were showing a decrease of \$47k as a result of the swift action taken to reduce these expenditures during the initial phase of the pandemic. Park and Senior Center divisions' expenditures are at 32% well below the 50% second quarter benchmark as a result of these reductions.

Golf Course:

Revenues:

Golf and Pro Shop: Despite the temporary closure of the golf course for COVID-19, the golf course rebounded. As a result, green fee revenues were \$200.9k or \$11.6k more than last year. The number of rounds actually increased to 10,333, which is an increase of 468 rounds over last year. Because of social distancing, only one golfer in a cart, the course was hitting their golf cart capacity. Therefore, an additional thirty carts were leased to accommodate the increase rounds once the course was opened. In addition, cart rental rates and green fees were adjusted to account for the increased demand for tee times and to offset the additional cost of the carts during this social distancing requirement mandated to open the course. With the limited golf carts, increases in cart rental fees and an individual fee cart rentals, cart fees were \$99.5k, an increase of \$17k. Due to the limited traffic in the pro shop during the second quarter, merchandise and special order sales were only \$35.5k, which was \$42.5k or 54.4% less than last year. With the slow start to the season, and the closing of the course, seasonal pass fees were only \$43k, a significant decrease over the \$56k last year at this time. Range revenue although immediately increasing once the Health Department allowed the City to reopen, still only had sales of \$15.8k versus \$25.2k last year.

Food and Beverage revenue was only \$69.6k in the first half of the year compared to \$236.8k last year. Again this was the result of decreased events and the F&B operations being closed since the middle of March. Although cancellations have been the norm, for the near future some events are being rescheduled to later dates. Also, room rentals and accessory rentals were only \$3.2k almost \$14k less than last year at this time. Management continues to follow up with the Greene County Health Director to determine how the F&B side of the business will begin to ramp back into operations. The cart attendants were able to resume operations and the City is selling beverages and prepackaged food to the golfers to fill some of the service gap left by the closure of the grill room, weddings, and other F&B events.

Expenditures:

Operating expenditures were \$131k less than last year and only 44% of the annual operating budget. With the elimination of F&B activity, the corresponding costs associated with the operation also decreased. Last

year, the course was operating without several key positions. Due to the COVID-19 and the course closure, staff was reduced and in some cases furloughed especially in the F&B area where no services are being provided. As a result, F&B operational expenditures were at \$182k a \$106k decrease over last year. This includes decreases in corresponding categories such as food items, linens, etc. In addition, several large brunch events had to be cancelled including the popular Easter and Mother's Day events, which represented over 550 participants last year. The City has filed an insurance claim for the lost revenue, which falls under the pandemic coverage, however the covered costs are limited and are included as part of the entire MVRMA pool versus an individual City limit. Therefore, reimbursement from this event is limited and will be based on a percentage of claims each jurisdiction represents to the total claim, and may take some time before any reimbursements are processed.

Despite the course closure and rainy weather, the golf course continued with their aggressive ground maintenance program. Before the pandemic, additional resources were spent clearing underbrush and honeysuckle to allow additional aeration to the fairways and greens. Fertilizer, a main expense for the maintenance department, was purchased earlier this year resulting in an increase in maintenance costs when compared to last year. With the closure of the course, the City delayed the hiring of the full complement of seasonal employees, but are still operating with a limited staff to maintain the course at the standards that customers have come to expect.

Overtime & Comp Time: We continue to monitor overtime and compensatory time accrued. Although in some cases this is not controllable (snow events, employee injuries, city sponsored events), other times, overtime can be somewhat maintained through proper planning. The attached Overtime and Comp Time Analysis (Exhibit 3) shows that overtime citywide has decreased \$164k (or approximately 44.2%) over last year's second quarter. The City has spent only 37.4% of budgeted overtime to date. Comp time accrued in the second quarter was 2,802 hours, a 20.3% decrease over last year. Comp time accruals have decreased the estimated future liability to \$140k, which is an increase of \$10k or 7.7% over last year's second quarter liability.

Investments: (Exhibit 4)

As you can tell by the "Month End Investment Balances" report, there are significant fluctuations in the amount of funds available for investments. The Finance Department immediately transfers property tax funds to the Star Ohio fund to increase short term interest. The returns with Star Ohio are currently .55 (LY 2.55%) compared to 1.25% for our Public Funds account (City bank account). It should be noted that the Star Ohio Plus returns were significantly lower (83%) than Star Ohio so all funds were moved to Star Ohio. With an inverse yield curve for longer maturities, the City has not found many opportunities to lock into longer term rates without reducing liquidity and exposing the City to further rate risk in the future. Therefore, idle funds are residing at Star Ohio and the Public Funds until the market rebounds. This places an inordinate amount of the City's funds into liquid assets when normally the City's portfolio would be a mix of liquid and longer term 2-5 year maturities to balance the portfolio. To provide a further breakdown of the investment strategy, a "Portfolio" report was generated to summarize the different facets of the investment portfolio. Overall, the City's return on investments is .91%, which is well above the 12 month treasuries benchmark as of June 30th. As noted, cash investments were at the lowest point in January until the City started receiving property tax advances in March.

Summary: In summary, all major City funds operated within the 2020 budget unless noted above. After reading this recap, should you have any questions, please feel free to call me.

Enc: Summary of Revenue and Expenditures 2nd Quarter 2020 (Exhibit 1)
Property/Personal Property Tax & Local Government Fund Analysis (Exhibit 2)
Overtime/Comp Time Analysis – 2nd Quarter FY 2020 Compared to 2019 (Exhibit 3)

Investment Summary – 2nd Quarter FY 2020 (Exhibit 4)

City of Beavercreek
Summary of Revenue and Expenditures
For Month Ending June 30, 2020 - (Unaudited)

Exhibit 1

GENERAL FUND (101)						
REVENUE	AMENDED 2020 BUDGET	2ND QUARTER 2020 YTD. ACTUAL	2ND QUARTER 2019 YTD. ACTUAL	2020-2019 COMPARISON	% FY 2020 REV/EXP	
PROPERTY TAXES	\$ 1,410,710	\$ 755,067	\$ 752,550	\$ 2,517	54%	
FEES, LICENSE & PERMITS	\$ 655,000	\$ 323,872	\$ 334,276	\$ (10,404)	49%	
INTERGOVERNMENTAL REVENUES	\$ 1,279,555	\$ 562,230	\$ 536,005	\$ 26,225	44%	
SPECIAL ASSESSMENTS	\$ 130,000	\$ 71,745	\$ 70,368	\$ 1,376	55%	
CHARGES FOR SERVICES	\$ 112,929	\$ 59,382	\$ 73,264	\$ (13,882)	53%	
INTEREST	\$ 235,000	\$ 80,933	\$ 149,444	\$ (68,510)	34%	
OTHER REVENUES/TRANSFERS	\$ 903,348	\$ 591,582	\$ 1,324,219	\$ (732,637)	65%	
TOTAL REVENUE	\$ 4,726,542	\$ 2,444,811	\$ 3,240,126	\$ (795,315)	52%	
				% Increase/(Decrease) over 2019	(24.5%)	
EXPENDITURES						
COUNCIL	\$ 166,449	\$ 77,037	\$ 60,697	\$ 16,340	46%	
CLERK	\$ 110,429	\$ 46,774	\$ 48,072	\$ (1,299)	42%	
CITY MANGER	\$ 292,592	\$ 143,658	\$ 142,994	\$ 663	49%	
HR/RISK MGMT	\$ 103,814	\$ 51,694	\$ 51,092	\$ 602	50%	
FINANCE	\$ 483,872	\$ 259,675	\$ 232,513	\$ 27,161	54%	
INFORMATION TECHNOLOGY	\$ 174,822	\$ 89,019	\$ 85,677	\$ 3,342	51%	
CONTRACTUAL SERVICES	\$ 424,165	\$ 242,721	\$ 241,593	\$ 1,128	57%	
BLDG FACILITIES MAINTENANCE	\$ 144,084	\$ 62,638	\$ 52,592	\$ 10,046	43%	
GEMETERY MAINTENANCE	\$ 218,994	\$ 87,255	\$ 88,183	\$ (928)	40%	
PLANNING & DEVELOPMENT	\$ 643,435	\$ 288,404	\$ 324,478	\$ (36,074)	45%	
PLANNING & ZONING BOARDS	\$ 6,740	\$ 2,470	\$ 3,345	\$ (876)	37%	
DISTRICT LIGHTING	\$ 99,000	\$ 34,874	\$ 39,307	\$ (4,434)	35%	
CAPITAL IMPROVEMENTS	\$ 261,400	\$ -	\$ 1,252	\$ (1,252)	0%	
TRANSFERS OUT	\$ 1,713,941	\$ 857,470	\$ 892,953	\$ (35,483)	50%	
ADVANCE OUT (STREET FUND)	\$ 570,000	\$ -	\$ -	\$ -	0%	
TOTAL EXPENDITURES	\$ 5,413,737	\$ 2,243,687	\$ 2,264,750	\$ (21,062)	41%	
				% Increase/(Decrease) over 2019	(0.9%)	

*Includes carry over encumbrances from 2019

City of Beavercreek
 Summary of Revenue and Expenditures
 For Month Ending June 30, 2020 - (Unaudited)

Exhibit 1

POLICE DEPARTMENT (202)					
REVENUE	AMENDED 2020 BUDGET*	2ND QUARTER 2020 YTD ACTUAL	2ND QUARTER 2019 YTD ACTUAL	2020-2019 COMPARISON	% FY 2020 REV/EXP
TAXES	\$ 8,263,985	\$ 4,427,774	\$ 4,412,072	\$ 15,701	54%
FEES, LICENSES, & PERMITS	\$ 91,600	\$ 43,716	\$ 51,473	\$ (7,757)	48%
INTERGOVERNMENTAL REVENUES	\$ 1,272,411	\$ 654,149	\$ 543,718	\$ 110,432	51%
CHARGES FOR SERVICES	\$ 209,948	\$ 62,596	\$ 181,854	\$ (119,257)	30%
OTHER REVENUE	\$ 42,000	\$ 95,063	\$ 55,699	\$ 39,363	226%
TOTAL REVENUE	\$ 9,879,944	\$ 5,283,298	\$ 5,244,816	\$ 38,482	53%
% Increase/(Decrease) over 2019				0.7%	
EXPENDITURES					
BLDG FACILITIES MAINT	\$ 107,019	\$ 40,730	\$ 42,765	\$ (2,034)	38%
POLICE ADMIN	\$ 279,812	\$ 125,312	\$ 119,631	\$ 5,681	45%
SUPPORT SERVICES	\$ 1,848,234	\$ 860,023	\$ 839,056	\$ 20,967	47%
EMERGENCY DISPATCH -911 Funds	\$ 62,220	\$ 23,401	\$ 25,821	\$ (2,420)	38%
CORRECTIONS	\$ 259,225	\$ 127,361	\$ 128,372	\$ (1,011)	49%
ALLOCABLE SUPPORT	\$ 1,697,791	\$ 650,755	\$ 776,951	\$ (126,196)	38%
SPECIAL SERVICES	\$ 1,384,668	\$ 670,018	\$ 669,531	\$ 487	48%
POLICE OPERATIONS	\$ 5,741,049	\$ 2,591,322	\$ 2,387,461	\$ 203,861	45%
OFF DUTY TRUST ACCOUNT	\$ 43,033	\$ 64,943	\$ 12,407	\$ 52,535	151%
COPP PROGRAM	\$ 3,905	\$ 329	\$ 570	\$ (241)	8%
TOTAL EXPENDITURES	\$ 11,426,955	\$ 5,154,194	\$ 5,002,565	\$ 151,629	45%
% Increase/(Decrease) over 2019				3.0%	

*Includes carry over encumbrances from 2019.

City of Beavercreek
Summary of Revenue and Expenditures
For Month Ending June 30, 2020 - (Unaudited)

EXHIBIT I

STREET LEVY (203)					
REVENUE	AMENDED 2020 BUDGET*	2ND QUARTER 2020 YTD ACTUAL	2ND QUARTER 2019 YTD ACTUAL	2020-2019 COMPARISON	% FY 2020 REV/EXP
TAXES	\$ 5,405,800	\$ 2,895,538	\$ 2,897,139	\$ (1,601)	54%
FEES, LICENSE & PERMITS	\$ 19,100	\$ 10,671	\$ 3,803	\$ 6,868	56%
INTERGOVERNMENTAL REVENUES	\$ 1,385,238	\$ 1,797,668	\$ 534,873	\$ 1,262,814	130%
OTHER REVENUES	\$ 43,260	\$ 64,737	\$ 14,467	\$ 50,270	150%
ADVANCE IN (From GF)	\$ 570,000	\$ -	\$ -	\$ -	0%
TOTAL REVENUE	\$ 7,423,398	\$ 4,768,633	\$ 3,450,281	\$ 1,318,351	64%
% Increase/(Decrease) over 2019				38.2%	
EXPENDITURES					
ENGINEERING	\$ 147,658	\$ 58,414	\$ 76,102	\$ (17,688)	40%
BLDG FACILITIES MAINT	\$ 338,470	\$ 188,760	\$ 121,532	\$ 67,228	56%
STREET INSPECTION	\$ 610,255	\$ 279,621	\$ 249,799	\$ 29,822	46%
ADMINISTRATION	\$ 779,920	\$ 349,907	\$ 394,926	\$ (45,020)	45%
STREET MAINTENANCE	\$ 3,262,861	\$ 1,211,653	\$ 844,251	\$ 367,402	37%
SNOW & ICE CONTROL	\$ 487,782	\$ 259,300	\$ 160,053	\$ 99,248	53%
WEED & GRASS CONTROL	\$ 310,854	\$ 150,848	\$ 137,626	\$ 13,222	49%
VEHICLE & EQUIP MAINT.	\$ 326,984	\$ 105,289	\$ 116,165	\$ (10,876)	32%
TRAFFIC SAFETY	\$ 823,249	\$ 359,418	\$ 411,815	\$ (52,397)	44%
STORM WATER MAINT.	\$ 457,567	\$ 143,708	\$ 239,367	\$ (95,660)	31%
TRANSFER OUT	\$ 250,000	\$ 250,000	\$ -	\$ 250,000	100%
Total Operating Expenditures	\$ 7,795,601	\$ 3,356,918	\$ 2,751,636	\$ 605,283	43%
% Increase/(Decrease) over 2019				22.0%	
CURRENT-YEAR CAPITAL	\$ 2,598,980	\$ 649,997	\$ 965,183	\$ (315,187)	25%
TOTAL EXPENDITURES	\$ 10,394,581	\$ 4,006,915	\$ 3,716,819	\$ 290,096	39%
% Increase/(Decrease) over 2019				-7.8%	

*Includes carry over encumbrances from 2019

City of Beavercreek
Summary of Revenue and Expenditures
 For Month Ending June 30, 2020 - (Unaudited)

EXHIBIT 1

STREET MAINTENANCE FUND (204)					
REVENUE	AMENDED 2020 BUDGET*	2ND QUARTER 2020 YTD ACTUAL	2ND QUARTER 2019 YTD ACTUAL	2020-2019 COMPARISON	% FY 2020 REV/EXP
COUNTY VEHICLE PERMISSIVE TAX	\$ 240,000	\$ -	\$ 183,277	\$ (183,277)	0%
GASOLINE/LICENSE TAXES	\$ 5,575,700	\$ 1,275,670	\$ 915,081	\$ 360,589	23%
TOWNSHIP FUEL	\$ 122,300	\$ 40,553	\$ 44,114	\$ (3,561)	33%
INTEREST	\$ 4,000	\$ 5,679	\$ 1,656	\$ 4,024	142%
OTHER REVENUES	\$ 33,000	\$ 31,006	\$ -	\$ 31,006	94%
TOTAL REVENUE	\$ 5,975,000	\$ 1,352,908	\$ 1,144,128	\$ 208,780	23%
				18.2%	
EXPENDITURES					
STREET MAINTENANCE	\$ 295,258	\$ 117,617	\$ 125,029	\$ (7,411)	40%
ANNUAL PAVING	\$ 405,379	\$ 15,883	\$ 10,653	\$ 5,230	4%
SNOW & ICE CONTROL	\$ 461,170	\$ 30,731	\$ 504,014	\$ (473,283)	7%
CAPITAL IMPROVEMENTS	\$ 5,262,453	\$ 224,062	\$ 121,762	\$ 102,301	4%
TOTAL EXPENDITURES	\$ 6,424,260	\$ 388,294	\$ 761,457	\$ (373,163)	6%
				(49.0%)	

STREET CAPITAL FUND (260)					
REVENUE	AMENDED 2020 BUDGET*	2ND QUARTER 2020 YTD ACTUAL	2ND QUARTER 2019 YTD ACTUAL	2020-2019 COMPARISON	% FY 2020 REV/EXP
PROPERTY TAX	\$ 2,536,390	\$ 1,409,309	\$ 1,395,703	\$ 13,606	56%
INTERGOVERNMENTAL - GRANTS	\$ 4,171,529	\$ 27,001	\$ 438,829	\$ (411,829)	1%
TOTAL REVENUE	\$ 6,707,919	\$ 1,436,310	\$ 1,834,532	\$ (398,223)	21%
				(21.7%)	
EXPENDITURES					
ANNUAL PAVING	\$ 1,563,650	\$ 93,877	\$ 18,137	\$ 75,740	6%
CAPITAL IMPROVEMENTS	\$ 7,745,417	\$ 627,166	\$ 638,310	\$ (11,143)	8%
TOTAL EXPENDITURES	\$ 9,309,067	\$ 721,043	\$ 656,446	\$ 64,597	8%
				9.8%	

STREET CAPITAL IMPROVEMENT FUND (408)					
REVENUE	AMENDED 2020 BUDGET*	2ND QUARTER 2020 YTD ACTUAL	2ND QUARTER 2019 YTD ACTUAL	2020-2019 COMPARISON	% FY 2020 REV/EXP
COUNTY AND MUNICIPAL LICENSE TAX	\$ 369,000	\$ 161,176	\$ 180,230	\$ (19,054)	44%
TOTAL REVENUE	\$ 369,000	\$ 161,176	\$ 180,230	\$ (19,054)	44%
				(10.6%)	
EXPENDITURES					
AUDITORS FEE	\$ 2,540	\$ -	\$ -	\$ -	0%
CAPITAL OUTLAY	\$ 631,774	\$ 283,758	\$ 13,183	\$ 270,575	45%
TRANSFERS OUT	\$ 30,507	\$ 15,254	\$ 15,506	\$ (252)	50%
TOTAL EXPENDITURES	\$ 664,821	\$ 299,012	\$ 28,689	\$ 270,323	45%

*Includes carry over encumbrances from 2019

City of Beavercreek
Summary of Revenue and Expenditures
For Month Ending June 30, 2020 - (Unaudited)

EXHIBIT 1

RECREATION LEVY FUND (279)					
REVENUE	AMENDED 2020 BUDGET*	2ND QUARTER 2020 YTD ACTUAL	2ND QUARTER 2019 YTD ACTUAL	2020-2019 COMPARISON	% FY 2020 REV/EXP
PROPERTY TAX	\$ 1,526,173	\$ 858,680	\$ 632,607	\$ 226,073	56%
INTERGOVERNMENTAL - GRANTS	\$ 302,053	\$ 135,395	\$ 126,781	\$ 8,613	45%
CHARGES FOR SERVICES	\$ 423,850	\$ 187,979	\$ 253,963	\$ (65,984)	44%
DONATIONS & OTHER REVENUE	\$ 36,750	\$ 31,278	\$ 34,611	\$ (3,333)	85%
TRANSFERS IN FROM GF	\$ 240,000	\$ 120,000	\$ 120,000	\$	50%
TOTAL REVENUE	\$ 2,528,826	\$ 1,333,332	\$ 1,167,963	\$ 165,369	53%
				14.2%	
% Increase/(Decrease) over 2019					
EXPENDITURES					
PARKS MAINTENANCE	\$ 1,441,563	\$ 617,243	\$ 601,269	\$ 15,973	43%
RECREATIONAL PROGRAMS	\$ 269,927	\$ 60,293	\$ 92,688	\$ (32,395)	22%
SENIOR LEVY SERVICES	\$ 509,966	\$ 193,615	\$ 204,385	\$ (10,770)	38%
CAPITAL	\$ 346,075	\$ 84,130	\$ 201,744	\$ (117,614)	24%
TRANSFER OUT	\$ 129,150	\$ 64,575	\$ 62,975	\$ 1,600	50%
TOTAL EXPENDITURES	\$ 2,696,681	\$ 1,019,856	\$ 1,163,061	\$ (143,205)	38%
				(12.3%)	
% Increase/(Decrease) over 2019					
GOLF COURSE FUND (572)					
REVENUE	AMENDED 2020 BUDGET*	2ND QUARTER 2020 YTD ACTUAL	2ND QUARTER 2019 YTD ACTUAL	2020-2019 COMPARISON	% FY 2020 REV/EXP
GOLF & PRO SHOP	\$ 839,500	\$ 400,294	\$ 441,849	\$ (41,555)	48%
FOOD & BEVERAGE REVENUE	\$ 472,000	\$ 69,644	\$ 236,799	\$ (167,155)	15%
Total Operating Revenue	\$ 1,311,500	\$ 469,938	\$ 678,648	\$ (208,710)	36%
				(30.8%)	
% Increase/(Decrease) over 2019					
MISC. REVENUE	\$ 7,650	\$ 81	\$ 783	\$ (701)	-1%
REFUNDS & REIMBURSEMENT	\$ 1,700	\$ 13,130	\$ 1,697	\$ 11,433	772%
TRANSFERS IN FROM GF & MISC.	\$ 1,472,941	\$ 736,470	\$ 770,953	\$ (34,483)	50%
TOTAL REVENUE	\$ 2,793,791	\$ 1,219,620	\$ 1,452,080	\$ (232,460)	44%
				(16.0%)	
% Increase/(Decrease) over 2019					
EXPENDITURES					
OPERATIONS	\$ 696,980	\$ 285,878	\$ 327,085	\$ (41,208)	41%
FOOD & BEVERAGE	\$ 518,126	\$ 182,486	\$ 288,727	\$ (106,240)	35%
MAINTENANCE	\$ 543,921	\$ 310,734	\$ 291,470	\$ 19,265	57%
Total Operating Expenditures	\$ 1,759,027	\$ 779,098	\$ 907,281	\$ (128,183)	44%
				(14.1%)	
% Increase/(Decrease) over 2019					
CAPITAL EXPENDITURE	\$ 113,000	\$ 28,342	\$ 5,508	\$ 22,834	25%
BOND AND INTEREST PAYMENT	\$ 922,250	\$ 856,125	\$ 857,053	\$ (928)	93%
TOTAL EXPENDITURES	\$ 2,794,277	\$ 1,663,565	\$ 1,769,843	\$ (106,278)	60%
				(6.0%)	
% Increase/(Decrease) over 2019					
NET OPERATING GAIN (LOSS)	\$ (447,527)	\$ (309,160)	\$ (228,634)	\$ (80,527)	69%

*Includes carry over encumbrances from 2019.

**CITY OF BEAVERCREEK
PROPERTY TAX AND LOCAL GOVERNMENT FUND ANALYSIS**

FUND & REVENUE TYPE	2020	2020	DIFFERENCE ACT/BUDGET	% REC'D	2019	2019	% REC'D	2020 TO	% Rev
	AMENDED BUDGET	2nd QUARTER YTD ACTUAL			AMENDED BUDGET	2nd QUARTER YTD ACTUAL		2019 INC/(DECR)	Inc./(Dec) 20 to 19
Property Taxes									
<i>General Fund</i>	\$ 1,410,650	\$ 755,044	\$ (655,606)	53.5%	\$ 1,308,300	\$ 752,490	57.5%	\$ 2,554	0.3%
<i>Police Fund</i>									
Property Taxes	\$ 7,878,025	\$ 4,221,716	\$ (3,656,309)	53.6%	\$ 7,628,330	\$ 4,206,566	55.1%	\$ 15,150	0.4%
Property Taxes (Pension)	\$ 385,710	\$ 205,921	\$ (179,789)	53.4%	\$ 357,780	\$ 205,225	57.4%	\$ 697	0.3%
Police Total	\$ 8,263,735	\$ 4,427,637	\$ (3,836,098)	53.6%	\$ 7,986,110	\$ 4,411,790	55.2%	\$ 15,847	0.4%
<i>Parks Levy Fund</i>	\$ 1,526,133	\$ 858,653	\$ (667,480)	56.3%	\$ 1,203,080	\$ 632,566	52.6%	\$ 226,087	35.7%
<i>Street Levy Funds</i>									
Property Taxes	\$ 5,405,600	\$ 2,895,405	\$ (2,510,195)	53.6%	\$ 5,497,871	\$ 2,896,865	52.7%	\$ (1,461)	(0.1%)
Street Capital Improvement	\$ 2,536,300	\$ 1,409,309	\$ (1,126,991)	55.6%	\$ 2,536,300	\$ 1,395,703	55.0%	\$ 13,606	1.0%
	\$ 7,941,900	\$ 4,304,714	\$ (3,637,186)	54.2%	\$ 8,034,171	\$ 4,292,568	53.4%	\$ 12,146	0.3%
Total Property Taxes	\$ 19,142,418	\$ 10,346,048	\$ (8,796,370)	54.0%	\$ 18,531,661	\$ 10,089,415	54.4%	\$ 256,633	2.5%
Local Government	\$ 462,005	\$ 277,890	\$ (184,115)	60.1%	\$ 435,976	\$ 219,364	50.3%	\$ 58,526	26.7%

City of Beavercreek

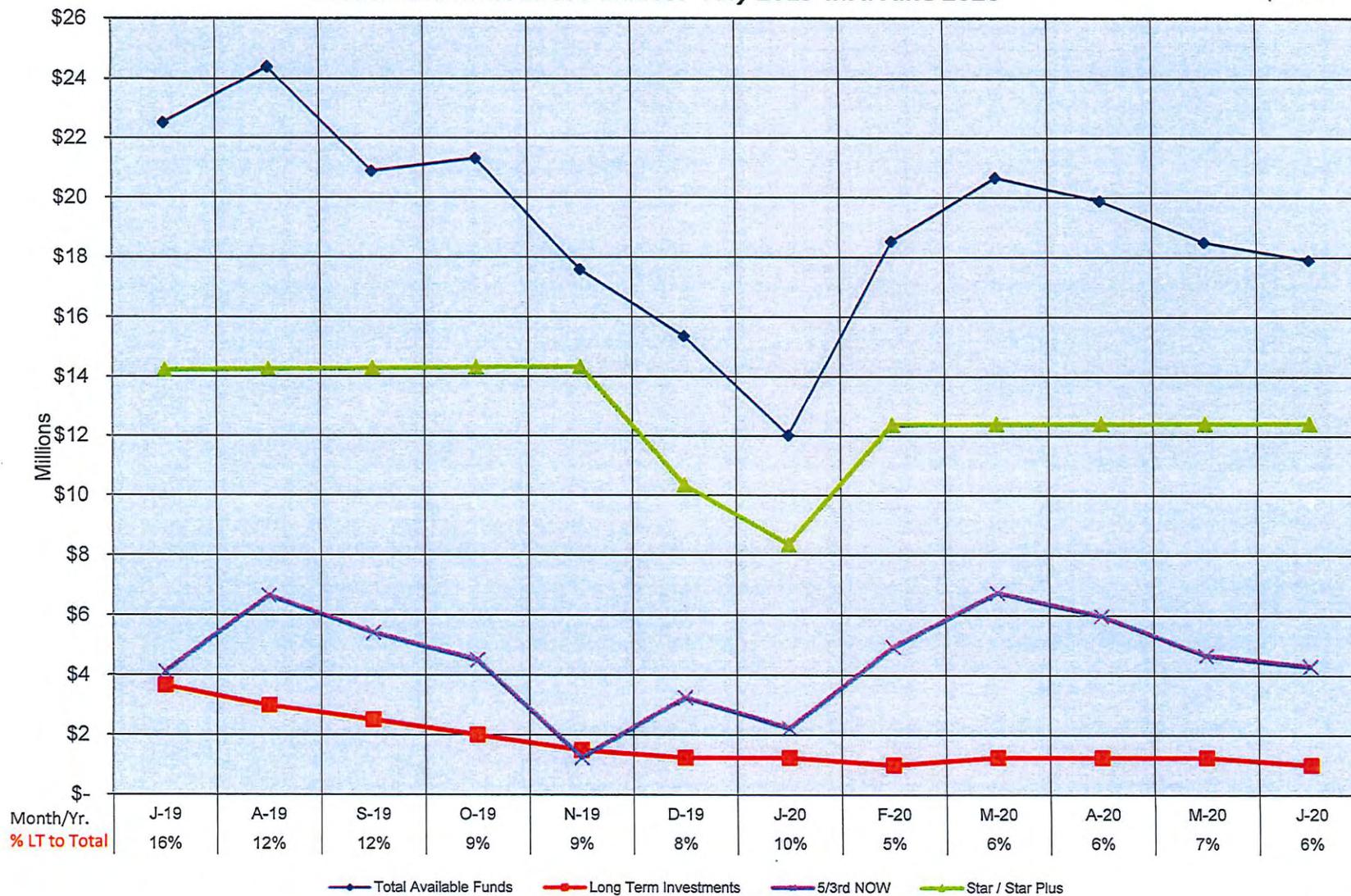
Overtime/Comp. Analysis - 2nd Quarter 2020 Compared to 2nd Quarter 2019

Fund/Dept/Division	Div #	2020	2019	\$ Change	% Change	2020 Budget	% of Total Budget Spent
Planning & Zoning	1610	\$ -	\$ 220	\$ (220)	0.0%	\$ 615	0.0%
Bldg. Facilities Maint:	3250	\$ -	\$ -	\$ -	0.0%	\$ 500	0.0%
Cemetery/Maint:	3750	\$ 1,638	\$ 1,739	\$ (101)	(5.8%)	\$ 2,500	65.5%
General Fund Total		\$ 1,638	\$ 1,959	\$ (321)	(16.4%)	\$ 3,615	45.3%
Police							
Support Services	2210	\$ 12,673	\$ 26,358	\$ (13,685)	(51.9%)	\$ 50,000	25.3%
Special Services	2510	\$ 9,352	\$ 13,490	\$ (4,138)	(30.7%)	\$ 35,000	26.7%
Operations	2610	\$ 86,507	\$ 123,036	\$ (36,529)	(29.7%)	\$ 250,000	34.6%
Special Duty	2615	\$ 53,142	\$ 9,853	\$ 43,288	439.3%	\$ 35,000	151.8%
Bldg Maintenance	3250	\$ -	\$ -	\$ -	0.0%	\$ 100	0.0%
Police Fund Total		\$ 161,674	\$ 172,737	\$ (11,063)	(6.4%)	\$ 370,100	43.7%
Street Levy Fund							
Engineering	1710	\$ 163	\$ -	\$ 163	0.0%	\$ 350	0.0%
Street Inspections	1720	\$ -	\$ -	\$ -	0.0%	\$ 1,000	0.0%
Bldg Facilities Maint:	3250	\$ -	\$ 919	\$ (919)	0.0%	\$ 1,000	0.0%
Street Maintenance	3320	\$ 1,061	\$ 12,644	\$ (11,583)	(91.6%)	\$ 13,000	8.2%
Snow & Ice Removal	3340	\$ 22,906	\$ 98,010	\$ (75,103)	(76.6%)	\$ 100,000	22.9%
Weed & Grass Control	3360	\$ -	\$ 1,584	\$ (1,584)	0.0%	\$ 515	0.0%
Vehicle & Equipment	3410	\$ -	\$ 1,572	\$ (1,572)	0.0%	\$ 10,000	0.0%
Traffic Safety	3510	\$ 12,267	\$ 60,304	\$ (48,036)	(79.7%)	\$ 20,000	61.3%
Storm Water	3610	\$ -	\$ 2,148	\$ (2,148)	(100.0%)	\$ 2,000	0.0%
Street Levy Total		\$ 36,235	\$ 177,181	\$ (140,946)	(79.5%)	\$ 147,515	24.6%
State Highway							
	1110	\$ 63	\$ 544	\$ (481)	(88.5%)	\$ 2,000	3.1%
Park Levy							
Parks Maintenance	3720	\$ 6,933	\$ 13,174	\$ (6,242)	(47.4%)	\$ 26,000	26.7%
Rotary Park	3729	\$ -	\$ 4,146	\$ (4,146)	(100.0%)	\$ -	0.0%
Senior Center	3882	\$ -	\$ 184	\$ (184)	(100.0%)	\$ 1,000	0.0%
Park Levy Totals		\$ 6,933	\$ 17,504	\$ (10,571)	(60.4%)	\$ 27,000	25.7%
Golf Course							
Operations	4720	\$ -	\$ -	\$ -	(100.0%)	\$ 250	0.0%
Food & Beverage	4730	\$ 70	\$ 403	\$ (333)	(82.6%)	\$ 2,000	3.5%
Maintenance	4740	\$ -	\$ 76	\$ (76)	0.0%	\$ 800	0.0%
Golf Course Totals		\$ 70	\$ 479	\$ (409)	(85.4%)	\$ 2,800	2.5%
Year End Totals		\$ 206,613	\$ 370,404	\$ (163,790)	(44.2%)	\$ 553,030	37.4%

Comp Time Hours Analysis		Accrued YTD 6-30	2019	2020	Used YTD 6-30	2019	Balance as of 6-30
		2020			2020		2020
Parks/Eng/Planning	282	429	182	287	136	150	\$ 3,318
Police	1,429	1,381	1,086	1,317	3,038	2,842	\$ 120,062
Public Service	1,091	1,706	671	957	672	812	\$ 16,784
Totals	2,802	3,516	1,919	2,561	3,846	3,804	\$ 140,163
% Difference 2020 to 2019		(20.3%)		(25.1%)		1.1%	(5.8%)

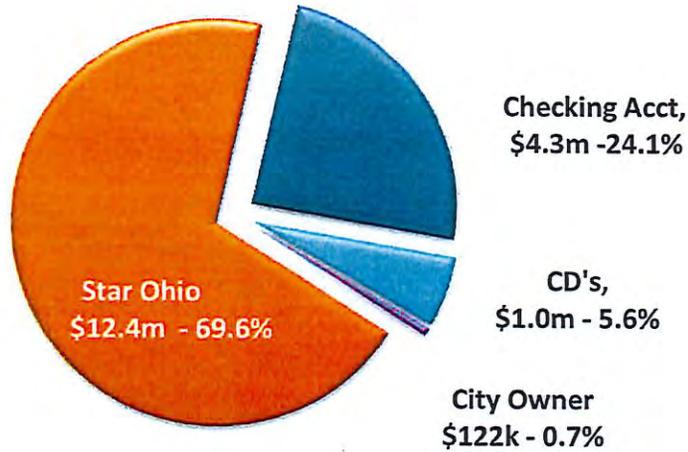
Month End Investmet Balances - July 2019 thru June 2020

Exhibit 4

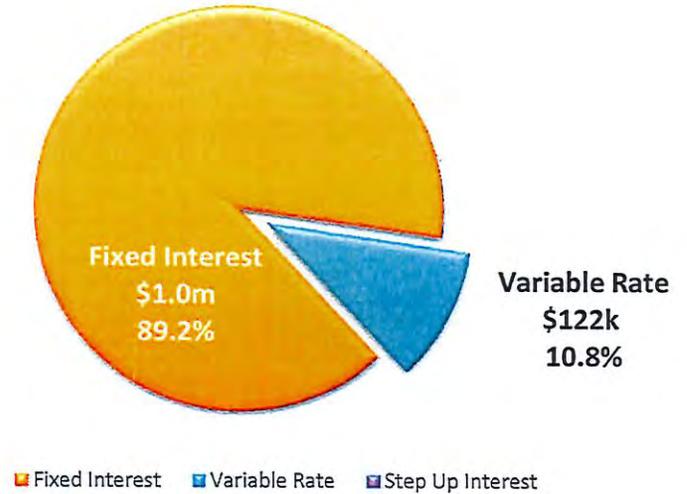


**City of Beavercreek Portfolio Report
June 2020**

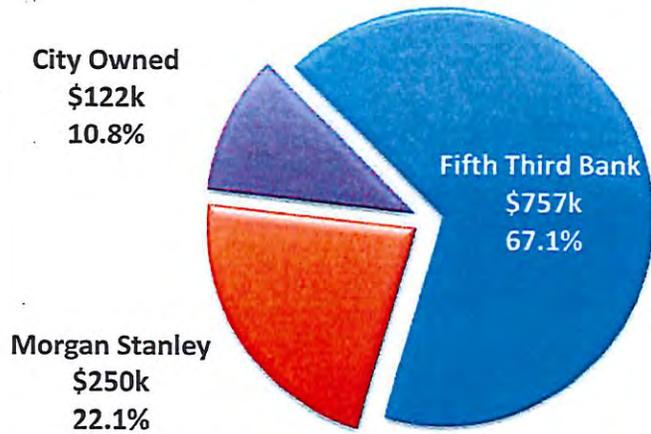
Investment by Type



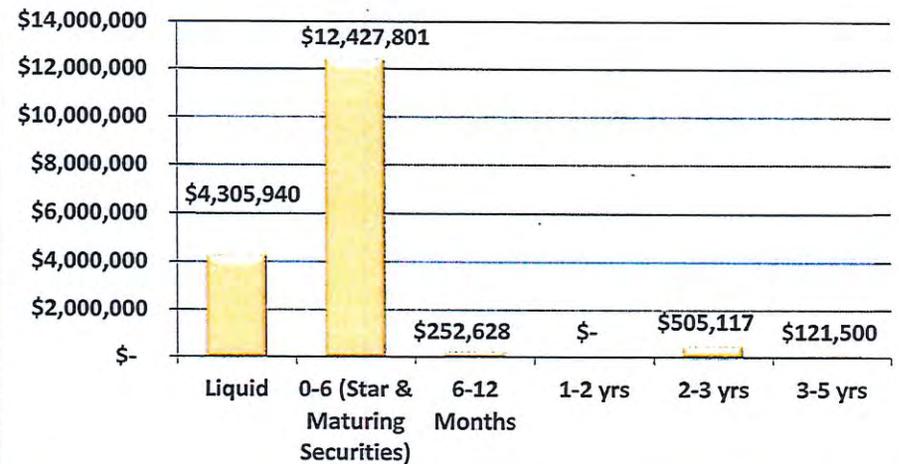
Investment Earnings Type



Investment by Broker



Maturity Schedule



CITY OF BEAVERCREEK INVESTMENT SUMMARY - June 2020

INVESTMENT	Earnings Type	Security Type	BROKER	INTEREST RATE (COUPON)	YIELD TO MATURITY	PURCHASE DATE	MATURITY DATE	AMOUNT	CALL or MATURITY DATE	YIELD TO CALL	NOTES	ANNUAL INT. AMOUNT	NEXT INTEREST PAYMENT	
SAI, CD Capital One Bank Glen Allen VA CD 1404203Y4	FR	CD	Morgan Stanley	1.900%	1.915%	8/16/2017	8/3/2020	\$ 250,074.69	NC	1.900%	SAI-2/18 & 8/18	\$ 4,750.00	8/2/2020	
SAI, CD Morgan Stanley BK CP 61690UUC2	FR	CD	Fifth Third	1.700%	1.680%	3/9/2020	2/28/2022	\$ 252,628.08	NC	1.680%	SAI 2/27, 8/27	\$ 4,250.00	8/27/2020	
SAI, CD Sallie Mae BK SLT Lake City Ut CD 7954505u5	FR	CD	Fifth Third	1.850%	1.850%	11/27/2019	11/28/2022	\$ 250,000.00	NC	1.820%	SAI, 11/27, 5/27	\$ 4,625.00	11/27/2020	
SAI, CD Wells Fargo Natl Assn CD 949763S64	FR	CD	Fifth Third	1.900%	1.870%	3/9/2020	1/30/2023	\$ 255,117.12	NC	1.870%	Monthly Interest	\$ 4,750.00	7/29/2020	
Long Term Investments as of June 30, 2020 - Held by Custodian								\$ 1,007,819.89				\$ 18,375.00		
VR Nutter Park Road - Assessment - COB	Step	N/A	N/A	1.140%	2.695%	12/1/2015	8/1/2030	\$ 21,500.00	8/1/2030	N/A	SAI May & Aug Steps yrlly	\$ 579.43	8/1/2020	
VR Lantz Road Assessment - COB	Step	N/A	N/A	3.250%	3.704%	9/10/2012	8/1/2032	\$ 100,000.00	8/1/2032	N/A	SAI May & Aug Steps 4/24-4%	\$ 3,704.00	8/1/2020	
Long Term Investments as of June 30, 2020 Held by City								\$ 121,500.00				\$ 4,283.43		
Total all Long Term Investments as of June 30, 2020								\$ 1,129,319.89				\$ 22,658.43		
Estimated Rate of Return on Long Term Investments											2.01%			
Short Term Investments				<u>Rates</u>	<u>Balance as of:</u>	<u>Valued</u>			<u>Projected Interest</u>					
Star Ohio				0.55%	6/30/2020	Daily	\$ 12,427,801			\$ 68,352.91				
Star Ohio Plus (blended rate)				0.30%	6/30/2020	Daily	\$			\$				
Public Fund Now Acct				1.25%	# 6/30/2020	Daily	\$ 4,305,940			\$ 53,824.25				
Operating Investments as of June 30, 2020								\$ 16,733,741			Total All Investments:	\$ 163,210.58		
Total investment as of June 30, 2020								\$ 17,863,061						
Total Portfolio Return				0.91%										
Benchmarks	Target Fed Funds Rate			0.09%	Source: Federalreserve.gov		6/30/2020							
Benchmarks	12 Month Treasuries			0.16%	Source: Federalreserve.gov		6/30/2020							
Benchmarks	2 yr Treasuries			0.16%	Source: Federalreserve.gov		5/30/2020							
<u>Tickmarks:</u>														
SAI=Semi Annual Interest, QIC=Quarterly Interest, AC=Annual Call, SAC=Semi Annual Call, QC=Quarterly Call, CC=Continuous Call, ST=Step Security, 1TC=One Time Call, FC= Fixed Coupon, CD = Certificate of Deposit,														
IQ = Interest Paid Qtrly on CD, FR=Fixed Rate, MI= Monthly Interest, (#) rate provided by 5/3rd Bank - deposits offset banking charges - changed from .25% to .50% with new collateral change from 102% to 50%.														
VR= Variable Rates based on repayment schedule prepared by bonding agent.														

CITY OF BEAVERCREEK INVESTMENT SUMMARY - June 2020

INVESTMENT	Earnings Type	Security Type	BROKER	INTEREST RATE (COUPON)	YIELD TO MATURITY	PURCHASE DATE	MATURITY DATE	AMOUNT	CALL or MATURITY DATE	YIELD TO CALL	NOTES	ANNUAL INT. AMOUNT	NEXT INTEREST PAYMENT
INVESTMENTS CALLED OR MATURED 2020													
<i>CALLED or MATURED SECURITIES in 2020</i>													
SAI, QTC	Federal Home Loan Mtg Corp MTN 3134GBPU0	Step	Agency	Fifth Third	1.710%	2.533%	6/14/2018	5/22/2020	\$ 246,386.25	2/24/2020	2.531%	SAI- 5/22 & 11/22	Full Call 2/22/20
SAI, CC	Federal Home Ln Bank Bonds 3130A94J7	FR	Agency	Fifth Third	1.375%	2.209%	9/2/2016	9/2/2020	\$ 250,000.00	CC after 3/2/17	1.375%	SAI 3/2, 9/2	Full Call 3/12/20
SAI, ST	Federal National Mtg Assn Note 3135G0SY0	FR	Agency	Fifth Third	1.600%	1.789%	3/24/2017	12/24/2020	\$ 249,282.50	Called 6/24/2020	1.611%	SAI 6/24 & 12/24	Full Call 6/24/20
	Total							<u>\$ 745,668.75</u>					

Tickmarks:

SAI=Semi Annual Interest, AC=Annual Call, SAC=Semi Annual Call, QC=Quarterly Call, CC=Continuous Call, ST=Step Security, 1TC=One Time Call, FC= Fixed Coupon



CITY COUNCIL
Regular Meeting – August 10, 2020 6:00 p.m.
Council Chambers

1368 Research Park Dr
Beavercreek, Ohio

This meeting will be held in the Council Chamber. Social distancing will be observed and it is asked that anyone wishing to attend the meeting in person to please wear a face mask.

Public Comments:

All persons present shall be given an opportunity to be heard on proposed legislation during a public hearing. Citizen Comments is also an opportunity to be heard regarding any topic. For those not wishing to appear in person but wish to make a public comment, please feel free to send an email to the Clerk of Council at: miscisin@beavercreekoio.gov or call (937) 320-7388. Comments must be received by 4:00 p.m., Monday, August 10, 2020 to be considered for the meeting. Please be very specific on which legislation you are addressing or if your comment is to be heard during the Citizen Comment section of the meeting. Thank you.

- I. CALL TO ORDER
- II. ROLL CALL
- III. PLEDGE AND PRAYER/MOMENT OF SILENCE – Council Member Duerr
- IV. APPROVAL OF AGENDA
- V. APPROVAL OF MINUTES
- VI. ORDINANCES, RESOLUTIONS AND PUDS
 - A. Resolution 20-__ Necessity and Intent to Appropriate Property (Joseph and Mollie Nelson) for the County Line Road Widening Project
 - B. Ordinance 20-__ Appropriate the Right-of-Way (Joseph and Mollie Nelson) for the County Line Road Widening Project (First Reading and Public Hearing)
 - C. Resolution 20-__ Necessity and Intent to Appropriate Property (Eric Davis) for the County Line Road Widening Project
 - D. Ordinance 20-__ Appropriate the Right-of-Way (Eric Davis) for the County Line Road Widening Project (First Reading and Public Hearing)
 - E. Resolution 20-__ Necessity and Intent to Appropriate Property (Robert Neff) for the County Line Road Widening Project
 - F. Ordinance 20-__ Appropriate the Right-of-Way (Robert Neff) for the County Line Road Widening Project (First Reading and Public Hearing)
 - G. Resolution 20-__ Approval of City Manager's Appointment of Planning and Development Director
- VII. COUNCIL TIME
- VIII. MAYOR'S REPORT
- IX. CITY MANAGER'S REPORT
- X. CITIZEN COMMENTS
- XI. ADJOURNMENT



CITY COUNCIL
Work Session – August 17, 2020 5:00 p.m.
Council Chambers

1368 Research Park Dr
Beaver Creek, Ohio

- I. CALL TO ORDER
- II. ROLL CALL
- III. APPROVAL OF AGENDA
- IV. DISCUSSION ITEMS
- V. COUNCIL COMMITTEE/EVENT UPDATES
- VI. ADJOURNMENT

DRAFT

PLANNING DEPARTMENT STATUS REPORT

July 21, 2020

CITY COUNCIL

July 27, 2020

- PC 20-3, Land Use Plan Update, public hearing
- PC 20-4, Zoning Code Update, public hearing

August 10, 2020

- PC 20-3, Land Use Plan Update, 2nd reading
- PC 20-4, Zoning Code Update, 2nd reading

Tabled / Delayed / Pending

PLANNING COMMISSION

August 5, 2020

- PC 20-6 ASRA, Dayton-Xenia Marathon Food Mart, public hearing
- PC 20-7 ASRA, Swift Coffee Drive-Thru, public hearing
- PC 20-8, Zoning Code- Chickens Text Amendment, public hearing
- S-20-5, Violette Plat
- S-20-6, Alpha School House Plat
- S-20-7, WesBanco Subdivision

Tabled / Delayed / Pending

-

Commercial Permits Submitted and Under Review

- Trinity
- WesBanco

BOARD OF ZONING APPEALS

August 12, 2020

- No cases

Currently Tabled or Delayed

- V-19-6, GNS Investment Properties, 3878 Indian Ripple Road
-
-