

ORDINANCE 610
CITY OF DAYTON

AN ORDINANCE AMENDING CHAPTER 7 - THE CITY OF DAYTON LAND USE AND DEVELOPMENT CODE TO ALLOW AND CLARIFY CERTAIN SPECIAL PERMITTED USES INCLUDING DRIVE-INS AND DRIVE-THROUGH AND WALK-UP WINDOWS IN THE COMMERCIAL, COMMERCIAL RESIDENTIAL, AND CENTRAL BUSINESS OVERLAY ZONES AND ESTABLISHING REGULATIONS FOR THE NEW SPECIAL PERMITTED USES AND DECLARING AN EMERGENCY.

WHEREAS, the City of Dayton Land Use and Development Code (DLUDC), Sections 7.3.112 and 7.3.203, allows the City Council to initiate and enact text amendments to the DLUCD applicable to the zone districts and supplemental standards for special uses through a Type IV (legislative) process; and

WHEREAS, the Planning Commission conducted a public hearing on February 23, 2012, at which the public was given full opportunity to be present and heard on the matter; and

WHEREAS, the Planning Commission on February 23, 2012, unanimously recommended to the City Council adoption of the text amendments ; and

WHEREAS, City Council conducted a public hearing to consider the requests on March 5, 2012, at which time the public was given full opportunity to be present and heard on the matter; and

WHEREAS, at the close of the public hearing, the City Council advised staff to redraft amendments for consideration at the April 2, 2012 meeting; and

WHEREAS, proper notice of said public hearings was given to the public pursuant to applicable state statutes including Oregon Revised Statute (ORS) 227.184; and

WHEREAS, the City Council hereby adopts the findings of fact set forth in the staff report prepared for the April 2, 2012, City Council meeting;

THE CITY OF DAYTON ORDAINS AS FOLLOWS:

Section 1. The adoption of the amendments to the DLUDC **SECTIONS 7.2.105 (Commercial Residential zone district), 7.2.106 (Commercial zone district), 7.2.111 (Central Business Overlay zone), and 7.2400 (Supplemental Standards for Special Uses)** as provided in Exhibit I (attached).

Section 2. This ordinance takes effect immediately.

First Reading: April 2, 2012

Second Reading: April 2, 2012

PASSED and adopted by the City Council of the City of Dayton on this 2nd day of April, 2012 by the following votes and providing an **effective date of April 2, 2012.**


In Favor: Blackburn, Evers, Frank, Utt, White, Witt

Opposed: None

Absent: Wytoski

Abstained: None

Approved by the Mayor on this 5 day of April, 2012.



Jolie White, Mayor

Attest: 

Peggy Selberg, City Recorder

EXHIBIT 1
Planning Commission 2/23/12 Public Hearing
DRAFT Code Amendments: Drive-through and Walk-up Windows

NOTE:

Strikeout indicates text proposed to be deleted
Bold/Underline indicates proposed text
COMMENTS note issues raised at the Planning Commission hearing

7.1.2 DEFINITIONS (Section 7.1.200.03 Definitions)

Drive-in: An eating establishment where customers park their vehicles and are served by staff who walk out to take orders and return with food, encouraging diners to remain parked while they eat.

Drive-through window. A building window that is designed to allow patrons to remain in their vehicles while services, goods, or transactions are delivered or provided to the customer through the service window.

Walk-up window. A window or building feature that allows patrons to remain outside the building while services, goods, or transactions are ordered, delivered and/or provided to the customer.

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7.2.105 COMMERCIAL RESIDENTIAL (CR)

7.2.105.01 Purpose

To provide areas for the development of a mixture of single family, multi-family, and manufactured homes, and limited retail and service commercial uses.

7.2.105.02 Permitted Uses

The following uses, when developed under the applicable development standards in the Code, are permitted in the CR zone:

- A. The following residential uses are permitted in the CR zone:
 - 1. Single family dwellings, detached
 - 2. Duplexes.
 - 3. Multi-family dwellings.
 - 4. Residential care homes and facilities
 - 5. Child day care service, including family day care provider, for 12 or fewer children
 - 6. Assisted living centers, nursing homes and similar institutions. These facilities are subject to the development provisions for multi-family residential development.

- B. The following commercial uses are permitted:

1. Business offices including, but not limited to, insurance, real estate and title insurance; credit agencies, brokerages, loan companies, and investment companies; television and radio broadcast studios (excepting a broadcast antennae or dish), and, miscellaneous offices such as detective agencies, drafting services or contractors offices.
2. Professional offices and clinics including, but not limited to, medical, dental, engineering and legal services, but excluding veterinary clinics.
3. Banks and other financial institutions.
4. Retail sales outlet including, but not limited to, food stores, pharmacy, furniture store, artist supplies, hobby or photography store, florist, hardware store, appliance or stereo equipment store, pet shop, sporting goods, department store, clothing, jewelry, gift, and other types retail activities but excluding liquor stores.
5. Restaurants, bakeries, coffee and snack shops but excluding taverns, bars and similar establishments.
6. Retail and service related stores such as TV and radio sales and service, bicycle shop, gunsmith, upholstery shop or other similar activities where a service department is customarily a secondary activity to the retail use.
7. Service related businesses such as barber shops, beauty shops, tailors, advertising agencies, travel agencies, art or craft studios, self-serve laundry, dry cleaning (except bulk dry cleaning plants), parcel service, printing or photocopying, video rental, or other activities where the primary activity is the providing of a service to retail customers.
8. Accessory structures and uses customarily provided for retail activities.

7.2.105.03 Special Permitted Uses

The following uses, when developed under the applicable standards in the Code and special development requirements, are permitted in the CR zone:

- A. Partitions, subject to the provisions in Section 7.2.307.
- B. Subdivision, subject to the provisions in Section 7.2.307.
- C. Accessory structures and uses prescribed in Section 7.2.203 and subject to the provisions in Section 7.2.309.
- D. The following uses subject to the applicable standards in Section 7.2.4:
 1. Attached dwelling units (Section 7.2.403).
 2. Manufactured homes on individual lots (Section 7.2.404).
 3. Home occupations (Section 7.2.406).
 4. Bed and breakfast establishments (Section 7.2.407).

E. Small wind energy systems, subject to the provisions in Section 7.2.413.

F. Drive-through windows and walk-up windows as part of a permitted use, subject to the provisions in Section 7.2.414 and 7.2.415 respectively.

7.2.105.04 Conditional Uses

The following uses require a Conditional Use Permit:

A. Public or private schools.

B. Public parks, playgrounds, community clubs including swimming, tennis and similar recreational facilities, and other public and semi-public uses.

C. Child day care service for 13 or more children.

D. Churches.

E. Park and Ride Lot: Parking spaces cannot count as required parking or be used for vehicle storage. *(Amended by Ord 589)*

F. Commercial activities which do not comply with the provisions in Section 7.2.105.02. ~~CB.~~

G. Wineries with retail sales *(amended effective 9/6/07, Ordinance #583)*

7.2.105.05 Dimensional Standards . . . *(Listing not included in this draft—no proposed changes)*

7.2.105.06 Development Standards *(amended effective 9/6/07, Ordinance #583)*

A. Use Restrictions. The following use restrictions shall apply:

1. No permitted, special permitted or conditionally permitted use shall in any way involve any of the slaughter, rendering or processing of animals. The processing of grains, fruits, vegetables, or dairy products for breads, wines, jams, cheeses and similar products may be allowed as part of a permitted or conditionally permitted commercial business.

(amended effective 9/6/07, Ordinance #583)

2. All business, service, processing or merchandise displays shall be conducted wholly within an enclosed building, except for the following:

a. Off-street parking and loading.

b. Temporary display and sales of merchandise; provided it does not interfere with pedestrian or automobile circulation, **or areas used for access of a permitted drive-through window or walk-up window.**

B. Commercial Uses. Commercial uses in the CR zone shall comply with the following additional standards:

1. The activity shall be conducted wholly within an enclosed structure **with the exception of a business with a permitted drive-through window or walk-up window.**

2. The maximum lot size . . . (*Listing not included in this draft—no proposed changes*).

3. Any new commercial structure shall maintain a residential appearance. Metal buildings, pole barns and similar structures are prohibited within the CR zone.

4. Commercial uses shall not engage in . . . (*Listing not included in this draft—no proposed changes*)

5. The commercial use shall have a maximum floor area . . . (*Listing not included in this draft—no proposed changes*)

6. Any outside storage space maintained in the CR Zone shall . . . (*Listing not included in this draft—no proposed changes*)

C. Mixed Commercial and Residential Uses. Development of mixed commercial and residential uses shall be subject to the provisions in item B., above.

D. Unless otherwise exempted, all development in the CR Zone shall comply with the applicable provisions of this Code. The following references additional development requirements:

1. Offstreet parking. Parking shall be as specified in Section 7.2.303.

2. Yards and Lots. Yards and lots shall conform to the standards of Section 7.2.308.

3. Subdivisions and Partitions. (*Listing not included in this draft—no proposed changes*)

4. Site Development Review: Multi-family and/or commercial uses within the CR Zone shall be subject to the Site Development Review requirements and procedures in Section 7.3.1. In addition, any conversion of an existing residence which includes a commercial use shall require a site development review.

5. Lot Coverage: (*Listing not included in this draft—no proposed changes*)

6. Landscaping: (*Listing not included in this draft—no proposed changes*)

(Following added by Ordinance #530, 06/04/01 – Effective 07/04/01) Multiple family developments shall comply with provisions in Section 7.2.306.06.

7.2.106 COMMERCIAL (C)

7.2.106.01 Purpose

The Commercial (C) Zone is the primary commercial zone within the City. The zone is specifically designed to provide area for commercial activities to serve the residents of the City and the surrounding area. The Commercial Zone is suitable for the Commercial Plan designation.

7.2.106.02 Permitted Uses *(amended effective 9/6/07, Ordinance #583)*

The following uses, when developed under the applicable development standards in the Zoning Code, are permitted in the C zone:

- A. Pre-schools, nurseries and kindergartens.
- B. Non-profit member organizations, such as business associations, labor unions, political organizations or fraternal lodges.
- C. Public and semi-public buildings, structures and uses, such as parks, parking, municipal offices, libraries, police and fire stations and hospitals.
- D. Public utility structures and buildings, such as pump stations, reservoirs, electric substations, and necessary right-of-way for public utilities.
- E. Business offices including, but not limited to, insurance, real estate and title insurance; credit agencies, newspaper, periodical, publishing and printing offices, and, similar business offices.
- F. Professional offices and clinics including, but not limited to, medical, dental, engineering and legal services, but excluding veterinary clinics.
- G. Banks services, brokerages, loan companies, investment companies and other financial institutions.
- H. Hotels and motels.
- I. Retail sales outlet including, but not limited to, food stores, pharmacy, furniture store, hobby or photography store, florist and garden supply including greenhouse, liquor store, hardware store, appliance or stereo equipment store, pet shop, sporting goods, department store, jewelry, gift, and other types retail activities.
- J. Restaurants, drive-ins, taverns, snack shops and other types of eating and drinking establishments, including entertainment facilities.
- K. Retail and service related stores such as TV and radio sales and service, bicycle shop, equipment rental or other similar activities where a service department is customarily a secondary activity to the retail use.
- L. Service related businesses such as barber shops, beauty shops, advertising agencies, printing or photocopying, or other activities which provide a service to retail customers.
- M. Residences limited to second or upper stories.
- N. Wineries with retail sales. *(amended effective 9/6/07, Ordinance #583)*

7.2.106.03 Special Permitted Uses

The following uses, when developed under the applicable standards in the Code and special development requirements, are permitted in the C zone:

- A. Partitions, subject to the provisions in Section 7.2.307.
- B. Subdivision, subject to the provisions in Section 7.2.307.
- C. Accessory structures and uses prescribed in Section 7.2.203 and subject to the provisions in Section 7.2.309.
- D. The following uses subject to the applicable standards in Section 7.2.4:
 - 1. Home occupations (Section 7.2.406).
 - 2. RV Parks (Section 7.2.408).
- E. Small wind energy systems, subject to the provision in Section 7.2.413.

F. Drive-through windows and walk-up windows as part of a permitted use, subject to the provisions of Section 7.2.414 and 7.2.415 respectively. .

7.2.106.04. Conditional Uses

The following uses require a Conditional Use Permit:

- A. Automobile service station, including towing service and vehicle washing and polishing facilities, and services.
- B. Automobile, truck, motorcycle, trailer, agricultural equipment, recreational vehicle and boat sales, lease and rentals.
- C. Tractor, farm equipment, heavy construction equipment, and logging equipment, rental, sales and service.
- D. Vehicle repair and maintenance, including electric motor repair, paint and body shop, tire recapping and similar automotive repair facilities.
- E. Part and accessory sales for automobiles, trucks, motorcycles, trailers, agricultural equipment, recreational vehicles and boats, including retail tire sales; but, specifically prohibiting junk yards, wrecking yards, or auto salvage and restoration yards.
- F. Laundry or dry cleaning.
- G. Warehouse for short term storage, including mini-warehouse.
- H. Lumber yard and contracting supplies for lumber, stone, masonry or metal.
- I. Special trade contracting facilities such as; floor laying, building equipment, masonry and stone, plumbing, electrical, metal work or painting.
- J. Cabinet shop where activities are conducted wholly within a building.

K. Welding and blacksmith shop.

L. Mortuary

M. Small-scale manufacturing businesses conforming to requirements in Section 7.2.411.

N. Park and Ride Lot: Parking spaces cannot count as required parking or be used for vehicle storage.

O. Wireless Communication Facility, subject to the provisions in Section 7.2.412.

7.2.106.05 Dimensional Standards

A. Lot Dimension and Height Requirements (*Dimensions and requirements not included in this draft—no changes proposed.*)

B. Minimum Yard Setback Requirements (*Included for informational purposes only—no changes proposed.*)

1. Front: None.

2. Side, Rear Yard: None, provided the setback shall be no less than the minimum rear yard setback of the zone on the adjacent property.

7.2.106.06 Development Standards

A. Development Exemptions: Commercial property located in the Central Business Area shall be subject to the requirements in Section 7.2.111.

B. Use Restrictions. The following use restrictions shall apply:

1. No permitted, special permitted or conditionally permitted use shall in any way involve any of the slaughter, rendering or processing of animals. The processing of grains, fruits, vegetables, or dairy products for breads, wines, jams, cheeses and similar products may be allowed as part of a commercial business or small-scale manufacturing where permitted in the zone. (***amended effective 9/6/07, Ordinance #583***)

2. All business, service, processing or merchandise displays shall be conducted wholly within an enclosed building, except for the following:

a. Off-street parking and loading.

b. Walk-up and ~~drive-in windows~~ **drive-through windows as part of a permitted use with the window meeting the required standards of Sections 7.2.415 and 7.2.414 respectively.**

c. Temporary display and sales of merchandise; provided it does not interfere with pedestrian or automobile circulation, **or areas used for an approved drive-through or walk-up window.**

d. Outdoor seating for eating and drinking places.

e. Outdoor display customary to a business (e.g. auto sales).

C. Unless otherwise exempted, all development in the C Zone shall comply with the applicable provisions of this Code. The following references additional development requirements:

1. Offstreet parking. Parking shall be as specified in Section 7.2.303.
2. Yards and Lots. Yards and lots shall conform to the standards of Section 7.2.308.
3. Site Development Review: Development within the C Zone shall be subject to the Site Development Review requirements and procedures in Section 7.3.1.
4. Lot Coverage: The maximum coverage allowed for buildings, accessory structures and paved parking shall be 90% **percent**.
5. Landscaping: All required yards shall be landscaped. Landscaped areas shall be landscaped as provided in Section 7.2.306. A minimum 10% **percent** of the property shall be landscaped.

7.2.111 CENTRAL BUSINESS AREA OVERLAY ZONE (CBO)

7.2.111.01 Purpose

The purpose of the Central Business Area Overlay Zone is to establish development requirements which are specifically designed to address the unique challenges the City's downtown.

7.2.111.02 Central Business Area Defined

For the purposes of this Section, the Central Business Area shall be defined as follows: C **and CR** zoned land located south of Church Street, east of Fifth Street, north of Alder Street, and west of Second Street.

7.2.111.03 Development Requirements

A. General Requirements: Notwithstanding provisions contained elsewhere in this Code, the following regulations shall apply to the development of new buildings within the Central Business Area.

B. Permitted Uses. Unless specifically modified by this Section, regulations in this Section do not prohibit or restrict, nor alter the development requirements of, permitted, specially permitted or conditionally permitted uses within the Commercial zone.

C. Use Restrictions. In addition to the use limitations in Section 7.2.106.06.B., **facilities with drive-through and drive-in** windows, and wireless communication facilities shall be prohibited. **An exception for a drive-through window may be granted by the City Manager if the property or business owner provides a written request for an exception containing written, historical evidence or photographic documentation (which documentation includes a date) that the drive-through window or a drive-in existed and was used as part of a permitted or conditional use prior to October 6, 2011 and evidence that the owner meets the requirements of Section 7.2.414. If the City Manager determines at the time the exception is requested**

that additional interpretation is needed, the Manager may require that the Planning Commission make a determination regarding the exception under a Type II process.

COMMENT: *This section was altered to better clarify a business with a drive-through window being separate from a drive-in that also has a drive-through window.*

7.2.111.04 Parking (*Listing not included in this draft –no changes proposed.*)

7.2.111.05 Landscaping (*Listing not included in this draft –no changes proposed.*)

7.2.111.06 Building Standards

New buildings shall comply with the following standards:

A. Setbacks. The maximum building setback from a street-side property line shall be 10 feet. The street-side setback area shall be landscaped. Otherwise, there shall be no minimum nor maximum building setbacks.

If a drive-through window is permitted through the exception process under Section 7.2.111.03(C), the setback from the street-side shall be a minimum of fifteen (15) feet.

B. Building Height. New buildings shall be within 25% **percent** of the average height of existing buildings located on the same street side.

C. Orientation. The main entrance to a building shall face a public street.

D. Building Facade. Building facades visible from a public street shall be of brick or wood construction.

E. Special Design Requirements. For property located on the south side of Ferry Street, between Third and Fourth Streets, the following additional design standards shall apply:

1. Setbacks. The maximum building setback from a street-side property line shall be 0 feet. **See Section 7.2.111.06, Letter A, for a drive-through window.**

2. Building Height. New buildings shall be within 10% **percent** of the average height of existing buildings.

3. Building Facade. The building facade visible from a public street shall be predominantly of brick.

4. Building Design. New buildings shall be similar in character and design with existing structures.

7.2.111.07 Signs. (*Listing not included in this draft –no changes proposed.*)

7.2.111.08 Modification of Site Design Standards

The Planning Commission, as part of the site design review process, may allow modification to the site design requirements in the Central Business Area when both of the following criteria are satisfied:

- A. The modification is necessary to provide design flexibility where:
 - 1. Conditions unique to the site require such modification; or,
 - 2. Parcel shape or configuration precludes compliance with provisions; or,
 - 3. A modification is necessary to preserve trees, other natural features or visual amenities determined by the Planning Commission to be significant to the aesthetic character of the area.
- B. Modification of the standards in this Section shall only be approved if the Planning Commission finds that the specific design proposed is substantially in compliance with the intent and purpose of the Central Business Area design provisions.



7.2.401 GENERAL PROVISIONS

A. Application. Special uses are subject to specific development standards. These standards are non-discretionary so that special review of a proposed development is not required. The standards contained in this Section apply where a special use is identified as a permitted use. If the special use is listed as a conditional use, the standards contained in this Section shall be considered guidelines and may be modified or eliminated. The special use standards do not automatically apply unless the subsection number is referenced following the use title (eg. Manufactured Home Park, Section 7.2.405).

B. Development Requirements. Unless specifically modified by the provisions of this Section, special uses are still subject to the development requirements of the underlying zone. Where the special use standard imposes a standard higher, the special use standard shall apply.

7.2.402 ACCESSORY RESIDENTIAL HOUSING (no changes)

7.2.403 ATTACHED DWELLING UNITS (no changes)

7.2.404 MANUFACTURED HOMES ON INDIVIDUAL LOTS (no changes)

7.2.405 MANUFACTURED HOME PARKS (no changes)

7.2.406 HOME OCCUPATIONS (no changes)

7.2.407 BED AND BREAKFAST ESTABLISHMENT (no changes)

7.2.408 RECREATIONAL VEHICLE PARKS (no changes)

7.2.409 SERVICE STATIONS (no changes)

7.2.410 AUTOMOTIVE SERVICES (no changes)

7.2.411 SMALL-SCALE MANUFACTURING (no changes)

7.2.412 WIRELESS COMMUNICATION FACILITY (no changes)

7.2.413 SMALL WIND ENERGY SYSTEMS (no changes)

7.2.414 Drive-through Windows

7.2.414.01 Purpose. The City encourages comfort and safety for pedestrian activities within its eCommercial and eCommercial Residential district including the central business area. Drive-through windows are allowed as a special permitted use but with standards to develop and maintain safe and convenient pedestrian access; limit the conflicts created by numerous points of access on one street or near intersections; limit any potential visual and noise conflicts; and separate/buffer the drive-through from residential zone districts.

7.2.414.02 Standards

A drive-through window allowed by Section 7.2.105.03 F. (CR zone) or Section 7.2.106.03 F. (C zone) shall meet the following standards.

A. Compliance with the applicable provisions of the Public Works Development Standards (PWDS).

1. Minimum widths for driveway entrances and the driveway/aisle serving the drive-through window.

2. Driveway location and separation from street intersection, other existing driveways and alleys, or between adjacent drive-through accesses. Also see 7.2.411.02 B. (Note: May also require written approval from the Oregon Department of Transportation (ODOT) where a driveway (entrance or exit) serving the drive-through window takes access from a right-of-way under ODOT jurisdiction.)

3. Driveway location based upon street classifications.

4. Requirements for clear-vision areas.

5. Minimum turning radius for driveways.

6. Surfacing for driveway, drive-through aisle, and parking areas.

7. On-site stacking/queuing lane length. (Note: Pedestrians shall not be required to cross the stacking lane to access the business except at designated and marked crosswalks. Installation of Americans with Disability Act (ADA) sidewalk ramps are required on both sides of commercial driveway entrances or stacking lane crossings.)

8. Storm water management.

B. Minimum separation from street intersection (for streets under the City's jurisdiction). Drive-through driveway entrances and exits shall be provided with a minimum clear separation of 50 feet from the intersection curb, or half the width of the lot, whichever is greater.

C. Drive-through windows requiring Site Development Review. In addition to compliance with Section 7.2.414 and the PWDS standards, developments (with proposed drive-through windows) that require Site Development Review shall comply with any land use conditions of approval.

D. Setback from public streets or property lines. Drive-through windows shall be setback a minimum of fifteen (15) feet from public rights-of-way or property lines, except where greater setbacks are required by the Development Code.

A minimum property line setback of 15 feet is required on any side of a building to accommodate the drive-through vehicle aisle.

E. Screening. Drive-through window and the access aisle shall be screened from adjacent residentially zoned properties by a 6-foot high sight-obscuring fence or hedge. For properties within the CR zone conducting a permitted commercial use, the applicable CR zone setbacks apply to the drive-through window and the access aisle.

F. Fire/Life Safety issues. Drive-through stacking/queuing areas shall be designed so that vehicles do not obstruct a driveway, fire access lane, walkway, or public right-of-way.

G. Location, noise levels, lighting for "ordering stations." The applicant is required to provide in writing the hours of operation, indicate provisions for limiting noise levels, and demonstrate graphically that lighting does not shine on moving vehicles within public rights-of-way or adjacent properties. The City has the authority to limit the hours of operation to between the hours of 7 a.m. and 10 p.m. Also see Noise Ordinance, Municipal Code, Section 2.8.

H. Merchandise. No merchandise shall be stored or displayed outside a building except as allowed by 7.2.105.06A.2.b. (CR zone) or 7.2.106.06 B 2.c. (C zone).

I. Transferability. Approval of drive-through windows are granted based upon the original approval for a building permit or Site Development Review, whichever is applicable, and is not transferrable to another business without approval by City staff under a Type I process. The business or property owner shall provide written evidence that the number of vehicle trips through the drive-through window does not increase in intensity/number over the originally approved business. The written evidence is subject to review by City staff. City staff may refer the request for the transferability to the Planning Commission toward making the determination using the Type I decision process.

7.2.414.03 Process

In addition to the limitations in Section 7.2.414.02 and other applicable provisions of the Development Code, the establishment of a drive-through window shall be subject to the following:

A. All applicable Development Code standards, such as setbacks and height limitations are applied at the time of building permit unless the structural change is subject to Site Development Review per Section 7.3.106.02. All new construction is subject to approval under the Site Development Review process, Section 7.3.106.

7.2.414.04 Historic Property. Drive-through windows for properties located within the Historic Property Overlay (HPO) as designated and listed by the City of Dayton are also subject to review under Section 7.2.112.07 (Historic Property Overlay).

7.2.414.05 Adjacent Historic Property. Drive-through windows for properties adjacent to properties located within the Historic Property Overlay as designated and listed by the City of Dayton are also subject to the following:

A. Location. The drive-through shall be situated to maintain the greatest possible distance from the adjacent historical site or structure while maintaining compliance with the setback requirements.

B. Screening. Screening and buffering (side and rear yards) shall be required. Screening may include fencing, berms, vegetation or any combination thereof. The screening shall be designed to maintain the visual integrity of the adjacent historic site or building. For example, a wooden fence may be required instead of a chain-link fence.

7.2.415 Walk-up Windows

7.2.415.01 Purpose. The City encourages comfort and safety for pedestrian activities within its Commercial and Commercial Residential districts including the central business area. Walk-up windows are allowed as a special permitted use but with standards to develop and maintain safe and convenient pedestrian access, limit any potential visual and noise conflicts, and separate/buffer the walk-up window from residential zone districts.

7.2.415.02 Standards. A walk-up window allowed by Section 7.2.105.03 F (CR zone) or Section 7.2.106.03 F (C Zone) shall meet the following standards.

A. Windows and service ledge shall not encroach into public right-of-way without written permission from the governing body with jurisdiction (i.e. ODOT or the City of Dayton).

B. Approved encroachments into right-of-way (or walk-up windows on private property that require patrons to stand within the right-of-way) shall provide a minimum unobstructed sidewalk or accessway width of eight (8) feet at the walk-up window (i.e. standing area width of three (3) feet and sidewalk clear width of five (5) feet) and shall meet ADA requirements/standards.

C. Canopies or covers over walk-up windows shall provide a minimum of eight (8) feet of vertical clearance (measured from finish grade).

D. The side and rear yard setback requirements of Sections 7.2.105.05 and 7.2.106.05 shall apply when the commercial use is adjacent or abutting a residentially zoned property. The walk-up window shall be screened from adjacent property by a 6-foot high sight-obscuring fence or hedge. For commercially used properties within the CR zone district, the setbacks (side and rear yards) in the listed sections apply to the property.

E. Transferability. Approval of walk-up windows are granted based upon the original approval for a building permit or Site Development Review, whichever is applicable and is not transferrable to another business without the approval of City staff under a Type I process. The business or property owner shall provide written evidence that the number of customer trips using the walk-up window does not increase in intensity/number over the originally approved business. The written evidence is subject to review by the City staff. City staff may refer the request for the transferability to the Planning Commission toward making the determination using the Type I decision process



7.2.415.04 Historic Property. Walk-up windows for properties located within the Historic Property Overlay (HPO) as designated and listed by the City of Dayton are also subject to review under Section 7.2.112.07.



7.2.415.05 Adjacent Historic Property. Walk-up windows for properties adjacent to properties located within the Historic Property Overlay (HPO) shall be subject to the following:

A. Location. The walk-up window shall be situated to maintain the greatest possible distance from the adjacent historical site or structure while maintaining compliance with the setback requirements.

B. Screening. Screening and buffering (side and rear yards) shall be required. Screening may include fencing, berms, vegetation or any combination thereof. The screening shall be designed to maintain the visual integrity of the adjacent historic site or building. For example, a wooden fence may be required instead of a chain-link fence.

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