

**Pat Moeller**

Mayor

**Eric Pohlman**  
Vice Mayor

**Carla Fiehrer**  
Council Member

**Susan Vaughn**  
Council Member

**Michael Ryan**  
Council Member

**Timothy Naab**  
Council Member

**Robert Brown**  
Council Member

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## **2 Public Hearings**

### **Call to Order**

**Offering of Prayer** – Council Member Robert Brown

### **Pledge of Allegiance**

### **Special Presentations by City Council or the City Manager/ Proclamations/ Verbal Reports**

1. Coronavirus/Covid-19 Presentation Update by Health Commissioner Kay Farrar
2. Second Quarter City Finances Presentation
3. Land Bank and Side Lot Program Presentation by Business Development Specialist Lauren Nelson

### **Audience of Citizens**

Individuals who wish to make comments regarding items scheduled on the Agenda may speak during this part of the agenda or may reserve the right to speak specifically when that item is up for a vote on Council floor. Individuals who wish to speak regarding items not specifically scheduled may do so at this time. All individuals who intend to address City Council are required to sign in at the table in the back of the room. Each speaker is allowed 5 minutes.

**For the time being only those who wish to speak regarding a specific agenda item will be permitted to give their comments in person. If Citizens wish to have an issue addressed by City Council or City Administration they should email those questions or comments to the City Clerk at: [nick.garuckas@hamilton-oh.gov](mailto:nick.garuckas@hamilton-oh.gov). The City Clerk may read your comments into the record during the appropriate Council Meeting. If comments are submitted far enough in advance of an upcoming meeting, an official City response may also be read into the record. You must still provide your name and address for the record. Please be concise with potential comments.**

### **Consent Agenda**

The Consent Agenda is intended to allow the City Council to spend its time and energy on the important items on a lengthy agenda. Staff recommends approval of the Consent Agenda. Anyone may request an item on this calendar to be "pulled" off the Consent Agenda and considered separately. Agenda items pulled from the Consent Agenda will be considered separately under Pulled Consent Items.

- Approval of Minutes
- All Staff Reports
- Receive and File Council Information
- Caucus Reports
- [Informational Report - Resignation of Fred Marcum from the Butler County Transportation Improvement District](#)

### **Committee of the Whole**

The Committee of the Whole is intended to allow the City Council to consider all reports on the Consent or Caucus Agendas under suspended rules that would normally apply to the City Council. City Council may ask questions, provide direction, or comment on reports.

**Unless City Council states otherwise this section of the agenda will not be held at this time.**



**Caucus Agenda August 12, 2020**

1. [Recommendation Relative to a Petition to vacate a portion of South Martin Luther King Jr. Boulevard Alley “B” located between Charles Street Alley & Pershing Avenue, abutting 524 South 4th Street, in the block between South 4th Street, South Martin Luther King Jr. Boulevard, Pershing Avenue, and Charles Street, Hamilton, Ohio 45011. \(City of Hamilton, Applicant\).](#)
2. [Recommendation Relative to a Major Amendment to Plan Hamilton adding the North End Corridor Revitalization Plan to the Plan.](#)
3. [Recommendation Relative to a Contract with ProChamps to administer the Vacant Commercial & Industrial Property Registration Program.](#)
4. [Recommendation Relative to the disposition of property located in the Urban Renewal Area through the Side Lot Program.](#)
5. [Recommendation Relative to the leasing of property located in the Urban Renewal Area.](#)

**Public Hearings**

4. [A Public Hearing on proposed amendments to City of Hamilton Codified Ordinances: Chapter 301, Definitions, Chapter 351, Parking Generally, and Chapter 1735, Littering.](#)
5. [A Public Hearing regarding Partnering with other Butler County Law Enforcement Agencies in securing funds through the FY2020 JAG application, Hamilton is applying to be the recipient of the sum of \\$16,050.](#)

These icons illustrate which strategic goals Council Actions align to

<p><b>Work</b></p> <p><b>I</b> Generate \$125 mm in new private investment</p>	<p><b>Live</b></p> <p><b>P</b> Exceed total county growth rate median home sale prices</p>	<p><b>Play</b></p> <p><b>R</b> Generate \$40mm in investment for recreational amenities</p>
<p><b>J</b> Increase gross wages paid by Hamilton employers by \$100mm</p>	<p><b>O</b> General Operations &amp; Government Business</p>	<p><b>E</b> Engage 500,000 participants in special events, arts, &amp; recreation activities</p>

**Council Actions Pertaining to Legislative Items:**

**Pending Legislation:**

6. [An ordinance approving the conveyance of certain real property acquired through the Land Bank to an adjoining property owner as a sidelot. \(115 Franklin Street\). \(Second Reading\).](#) **P**





7. [An ordinance approving the conveyance of certain real property acquired through the Land Bank to an adjoining property owner as a sidelot. \(830 Ross Avenue\). \(Second Reading\).](#) **P**
8. [An ordinance approving the conveyance of certain real property acquired through the Land Bank to an adjoining property owner as a sidelot. \(847 Fairview Avenue\). \(Second Reading\).](#) **P**
9. [An ordinance approving the conveyance of certain real property located within the City of Hamilton, Ohio's Urban Renewal Area, to an adjoining property owner as a sidelot. \(1749 Parrish Avenue\). \(Second Reading\).](#) **P**
10. [An ordinance amending and supplementing Schedule "A" of the City's Classification and Compensation Plan, as set forth in Emergency Ordinance No. EOR2020-1-6, adopted January 15, 2020, as amended from time to time, to amend the pay range for the classification of Police Chief. \(Second Reading\).](#) **0**
11. [An Emergency Ordinance to provide for the submission to the electors of the City of Hamilton, Ohio, at the General Election to be held on Tuesday, November 3, 2020, a proposed amendment to the City Charter the provisions of Article III, The Council, Section 3.01\(A\)\(4\), Powers of Council, and Article V, Administrative Service, Section 5.09, Number of Assistants and Subordinates; How Fixed, as set forth in full in this ordinance. \(Second Reading\).](#) **0**
12. [An Emergency Ordinance to provide for the submission to the electors of the City of Hamilton, Ohio, at the General Election to be held on Tuesday, November 3, 2020, a proposed amendment to the City Charter the provisions of Article III, The Council, Section 3.05, Compensation of Officials, as set forth in full in this ordinance. \(Second Reading\).](#) **0**
13. [An Emergency Ordinance to provide for the submission to the electors of the City of Hamilton, Ohio, at the General Election to be held on Tuesday, November 3, 2020, a proposed amendment to the City Charter the provisions of Article III, The Council, Section 3.07, Rules of Council, Section 3.08, Quorum, Voting Members, Article V, Section 5.04, Council not to Interfere in Appointments or Removals, and Article XVIII, Miscellaneous Provisions, Section 18.02, Financial Interest in Contracts, Etc, as set forth in full in this ordinance. \(Second Reading\).](#) **0**
14. [An Emergency Ordinance to provide for the submission to the electors of the City of Hamilton, Ohio, at the General Election to be held on Tuesday, November 3, 2020, a proposed amendment to the City Charter the provisions of Article III, The Council, Section 3.11, When Ordinances and Resolutions Take Effect, and a new Section 3.13, Publication for Public Hearings, as set forth in full in this ordinance. \(Second Reading\).](#) **0**





15. [An Emergency Ordinance to provide for the submission to the electors of the City of Hamilton, Ohio, at the General Election to be held on Tuesday, November 3, 2020, a proposed amendment to the City Charter the provisions of Article V, Administrative Service, Section 5.03, Removal of Officers and Employees, as set forth in full in this ordinance. \(Second Reading\). ① \(Charter Review Commission Version\).](#)
16. [An Emergency Ordinance to provide for the submission to the electors of the City of Hamilton, Ohio, at the General Election to be held on Tuesday, November 3, 2020, a proposed amendment to the City Charter the provisions of Article V, Administrative Service, Section 5.03, Removal of Officers and Employees, as set forth in full in this ordinance. \(Second Reading\). ① \(Mayor Amended Version\).](#)
17. [An Emergency Ordinance to provide for the submission to the electors of the City of Hamilton, Ohio, at the General Election to be held on Tuesday, November 3, 2020, a proposed amendment to the City Charter the provisions of Article VII, Department of Finance – Financial Procedure, Section 7.01, Duties of Director of Finance, as set forth in full in this ordinance. \(Second Reading\). ①](#)
18. [An Emergency Ordinance to provide for the submission to the electors of the City of Hamilton, Ohio, at the General Election to be held on Tuesday, November 3, 2020, a proposed amendment to the City Charter the provisions of Article IX, Improvement Contracts, as set forth in full in this ordinance. \(Second Reading\). ①](#)
19. [An Emergency Ordinance to provide for the submission to the electors of the City of Hamilton, Ohio, at the General Election to be held on Tuesday, November 3, 2020, a proposed amendment to the City Charter the provisions of Article X, Department of Civil Service, Sections 10.01 - 10.07, Sections 10.10 10.11, and 10.20 and any other references to the Department of Civil Service and Personnel or Director of Civil Service and Personnel in the this Charter, by renaming the Department of Civil Service and Personnel to the Department of Human Resources, as set forth in full in this ordinance. \(Second Reading\). ①](#)
20. [An Emergency Ordinance to provide for the submission to the electors of the City of Hamilton, Ohio, at the General Election to be held on Tuesday, November 3, 2020, a proposed amendment to the City Charter the provisions of Article X, Department of Civil Service, Sections 10.01\(D\), Civil Service Commission, and 10.02, Classifications, as set forth in full in this ordinance. \(Second Reading\). ①](#)
21. [An Emergency Ordinance to provide for the submission to the electors of the City of Hamilton, Ohio, at the General Election to be held on Tuesday, November 3, 2020, a proposed amendment to the City Charter the provisions of Article X, Department of Civil Service, Section 10.03\(H\), Civil Service Rules, as set forth in full in this ordinance. \(Second Reading\). ①](#)





22. [An Emergency Ordinance to provide for the submission to the electors of the City of Hamilton, Ohio, at the General Election to be held on Tuesday, November 3, 2020, a proposed amendment to the City Charter by establishing a new Article XI, Economic Development, as set forth in full in this ordinance. \(Second Reading\).](#) **0**
23. [An Emergency Ordinance to provide for the submission to the electors of the City of Hamilton, Ohio, at the General Election to be held on Tuesday, November 3, 2020, a proposed amendment to the City Charter the provisions of Article XII, Section 12.03, relating to Fire Force, as set forth in full in this ordinance. \(Second Reading\).](#) **0**
24. [An Emergency Ordinance to provide for the submission to the electors of the City of Hamilton, Ohio, at the General Election to be held on Tuesday, November 3, 2020, a proposed amendment to the City Charter the provisions of Article XVIII, Miscellaneous Provisions, Section 18.10, Equal Employment Opportunity; Prohibiting Discrimination; Gender, as set forth in full in this ordinance. \(Second Reading\).](#) **0**
25. [An Emergency Ordinance to provide for the submission to the electors of the City of Hamilton, Ohio, at the General Election to be held on Tuesday, November 3, 2020, a proposed amendment to the City Charter the provisions of Article XVIII, Miscellaneous Provisions, Section 18.11, Charter Review Commission, as set forth in full in this ordinance. \(Second Reading\).](#) **0**

**New Legislation:**

26. [An ordinance approving a request for a conditional use approval to expand an existing self-storage facility at 1010 Cleveland Avenue located in an I-1 Limited Industrial Zoning District, situated in the First Ward, City of Hamilton, Ohio. \(First Reading\).](#) **1 P 0**
27. [An ordinance approving a request for a conditional use certificate to operate an automotive service and minor repair business at 3000 Dixie Highway, property zoned I-1 Limited Industrial Zoning District, situated in the Sixth Ward, City of Hamilton, Ohio. \(First Reading\).](#) **1 P R**
28. [An ordinance vacating a portion of Arch Street Alley “A”, located between South C Street and South D Street, situated in the First Ward, South Side, City of Hamilton, Ohio. \(City of Hamilton, Applicant\). \(First Reading\).](#) **1 P 0**
29. [An ordinance approving the conveyance of certain real property acquired through the Land Bank to an adjoining property owner as a sidelot. \(122 Progress Avenue\). \(First Reading\).](#) **P**
30. [An ordinance approving the conveyance of certain real property acquired through the Land Bank to an adjoining property owner as a sidelot. \(P6421011000082 located adjacent to 242 Walnut Street\). \(First Reading\).](#) **P**





31. [An ordinance approving the conveyance of certain real property acquired through the Land Bank to an adjoining property owner as a sidelot. \(246 Walnut Street\). \(First Reading\).](#) **P**
32. [An ordinance approving the conveyance of certain real property acquired through the Land Bank to an adjoining property owner as a sidelot. \(420 Chestnut Street\). \(First Reading\).](#) **P**
33. [An ordinance approving the conveyance of certain real property located within the City of Hamilton, Ohio's Urban Renewal Area to an adjoining property owner as a sidelot. \(463 S. Fourth Street\). \(First Reading\).](#) **P**
34. [An ordinance approving the conveyance of certain real property acquired through the Land Bank to an adjoining property owner as a sidelot. \(600 S. McKinley Avenue\). \(First Reading\).](#) **P**
35. [An ordinance amending and supplementing Part Three – Traffic Code, repealing Section 301.20 Motor Vehicle, adding Section 301.301 Recreational Vehicle, and amending Section 301.51 Vehicle of Chapter 301 Definitions, of the Codified Ordinances of the City of Hamilton, Ohio. \(First Reading\).](#) **0**
36. [An ordinance amending and supplementing Part Three – Traffic Code, Chapter 351 Parking Generally, Section 351.03 and Subsection \(A\) Prohibited Standing or Parking Places, Section 351.03.1 Prohibited Standing and Parking of Certain Trucks and Buses and all Semi Trailers and Semi Tractors in a Residence District; Exceptions, Section 351.17 No Parking of Vehicles in Yards, and Section 351.99\(a\)\(3\) Penalty, of the Codified Ordinances of the City of Hamilton. \(First Reading\).](#) **0**
37. [An ordinance amending and supplementing Part Three – Traffic Code, Chapter 355 Junk and Abandoned Vehicles, Sections 355.01 – 355.05, of the Codified Ordinances of the City of Hamilton, Ohio. \(First Reading\).](#) **0**
38. [An ordinance amending and supplementing Part Seventeen – Health Code, Chapter 1735 Littering, Sections 1735.18 Maintaining Private Property Free of Litter, Section 1735.20 Effect of Noncompliance; City May Remove Violation, and Section 1735.22 Junk Motor Vehicles on Private Property with Permission of Owner; Notice of Removal and Impounding, of the Codified Ordinances of the City of Hamilton, Ohio. \(First Reading\).](#) **0**
39. [An ordinance amending and supplementing Section 753.03 of Chapter 753 of the Codified Ordinances of the City of Hamilton, Ohio regarding License Application Requirements. \(First Reading\).](#) **0**
40. [An ordinance amending the Codified Ordinances of the City of Hamilton, Ohio, Part 15, Fire Prevention Code, relative to adding Section 1505.03 General Prohibition on Outdoor Burning and Refuse Burning. \(First Reading\).](#) **0**





[41. An ordinance authorizing and directing the City Manager to execute a sale and development agreement, property conveyances, and related actions with Main Street Hamilton Apartments, LLC relating to 320 Main Street, Hamilton, Ohio. \(First Reading\).](#)

[IP0](#)

[42. An Emergency Ordinance authorizing the issuance of Taxable Economic Development Refunding Revenue Bonds, Series 2020, of the City of Hamilton, Ohio in the maximum principal amount \\$31,900,000 to provide funds for the purpose of refinancing costs of various capital improvements to the Champion Mill Site Project and financing grants to acquire, rehabilitate, improve and develop other real property within the City; providing for the pledge of revenues for the payment of such bonds; authorizing a Certificate of Award, a Bond Purchase Agreement, an Escrow Agreement, an Official Statement, a Continuing Disclosure Agreement; and authorizing other actions in connection with the issuance of such bonds; and declaring an emergency. \(First Reading\).](#) [IPRE0](#)

[43. An ordinance authorizing and directing the sale of property to Origin Venture LLC \(“Origin Venture”\) relative to certain property located at Hamilton Enterprise Park. \(Two Readings\).](#) [IJP0](#)

[44. An ordinance making supplemental appropriations for current expenses and other expenditures of the City of Hamilton, during the fiscal year ending December 31, 2020. \(Two Readings\).](#) [0](#)

[45. A resolution ratifying and approving the execution of an Interlocal Agreement, and authorizing the Police Department to apply for funding for Fiscal Year 2020 Justice Assistance Grant \(JAG\) to be used for Law Enforcement purposes, and accepting said grant funds.](#) [0](#)

[46. A resolution supporting and advocating for the passage of H.R. 7094 “Flexibility for States and Localities Act”.](#) [0](#)

**Audience of the City Manager**

**Audience of City Council**

**Executive Session**

**Adjournment**



## City Council Meeting Informational Report

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**TO:** The Honorable Mayor and Members of the City Council

**FROM:** Nicholas Garuckas, City Clerk

**RE:** Resignation of Fred Marcum from the Butler County Transportation Improvement District

Dear Mayor and Members of Council:

The City has accepted the resignation of Fred Marcum as a representative of the City of Hamilton on the Board of Directors of the Butler County Transportation Improvement District (BC TID). Mr. Marcum was appointed by City Council as one of two residential appointments and he has now moved out of the City forcing his resignation. The Office of the City Clerk will solicit applications to fill the remainder of his unexpired term. The new appointment will serve until December 31, 2021. The application and position requirements be can be found on the City website on the City Clerk's page and in the cerkl story linked below:

<https://app.cerkl.com/org/story.php?id=3707006>

This report is provided for your information and requires no City Council action.

**Choose Strategic Goal(s)**

- I** Generate 125mm in new private investment
- J** Increase gross wages paid by Hamilton Employers by \$100mm
- P** Exceed total county growth rate median home sale prices
- R** Generate \$40mm in investment for recreational amenities
- E** Engage 50,000 participants annually in special events, arts and recreation activities
- O** General Operations/ Government Business



## City Council Meeting Caucus Report

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**TO:** The Honorable Mayor and Members of the City Council

**RE:** Petition to vacate a portion of South Martin Luther King Jr. Boulevard Alley “B” located between Charles Street Alley & Pershing Avenue, abutting 524 South 4th Street, in the block between South 4th Street, South Martin Luther King Jr. Boulevard, Pershing Avenue, and Charles Street, Hamilton, Ohio 45011. (City of Hamilton, Applicant).

<input type="checkbox"/> 1 <sup>st</sup> Reading Date: N/A
<input type="checkbox"/> 2 <sup>nd</sup> Reading Date:
<input type="checkbox"/> Resolution Date:
<input type="checkbox"/> Public Hearing Date:

Dear Mayor and Members of Council:

The proposal is a submitted request to vacate portion of South Martin Luther King Jr. Boulevard Alley “B”. Previously, Ms. Nancy Nunez, 524 South Fourth Street, submitted a petition to vacate the alley in question and Council passed a resolution to vacate the alley in question. However, Ms. Nunez did not complete the alley vacation process.

Upon review, City Staff reconsidered the proposed vacation of South Martin Luther King Boulevard Alley “B”, and desired to move forward with the alley vacation as a City-initiated application. Due to statutes, the alley vacation request must be restarted, and would require a public hearing at the Planning Commission if Council accepts this petition.

**Overview:**

The alley in question is an unimproved, vacant, alley located in the Fourth Ward. This alley abuts 516, 520, 524 South 4th Street, and 412 Pershing Avenue on the west & 416 Pershing Avenue on the east. South Martin Luther King Jr. Boulevard, Alley “B” runs north-south and is accessible from Charles Street Alley in the north and Pershing Avenue to the south. The portion of alley measures approximately one-hundred and twenty feet (120’) in length, and ten feet (10’) in width, as 1,200 square feet of right-of-way. The alley currently has weeds and other vegetation growing through it.

It is the recommendation of this office that Council receives this petition and recommends that it be forwarded to the City Planning Commission for review, public hearing and recommendation.



Sincerely,

Caucus Report Prepared By:

Joshua A. Smith  
City Manager

Ed Wilson, AICP  
Associate Planner II

**Choose Strategic Goal(s)**

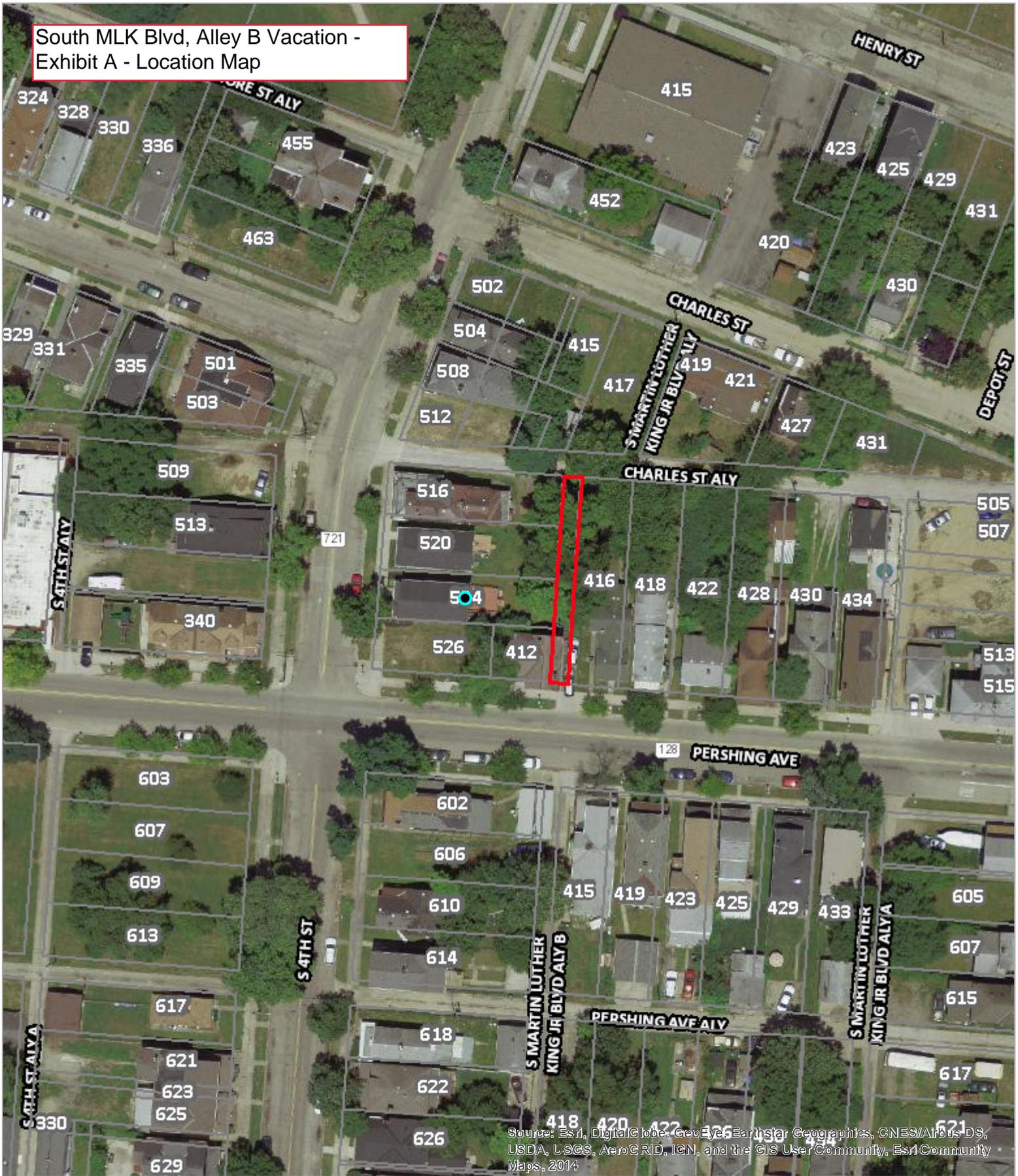
- I** Generate 125mm in new private investment
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- R** Generate \$40mm in investment for recreational amenities
- E** Engage 50,000 participants annually in special events, arts and recreation activities
- O** General Operations/ Government Business

**Attachments:**

- 1) Exhibit A - Location Map of South Martin Luther King Jr Blvd., Alley "B"
- 2) Exhibit B - Exhibit Map of Alley "B"



South MLK Blvd, Alley B Vacation -  
Exhibit A - Location Map



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community, Esri Community Maps, 2014



Areas

Override 1

# S MLK Alley B

City of Hamilton  
BUTLER COUNTY OHIO



# BCEO GIS Tax Map

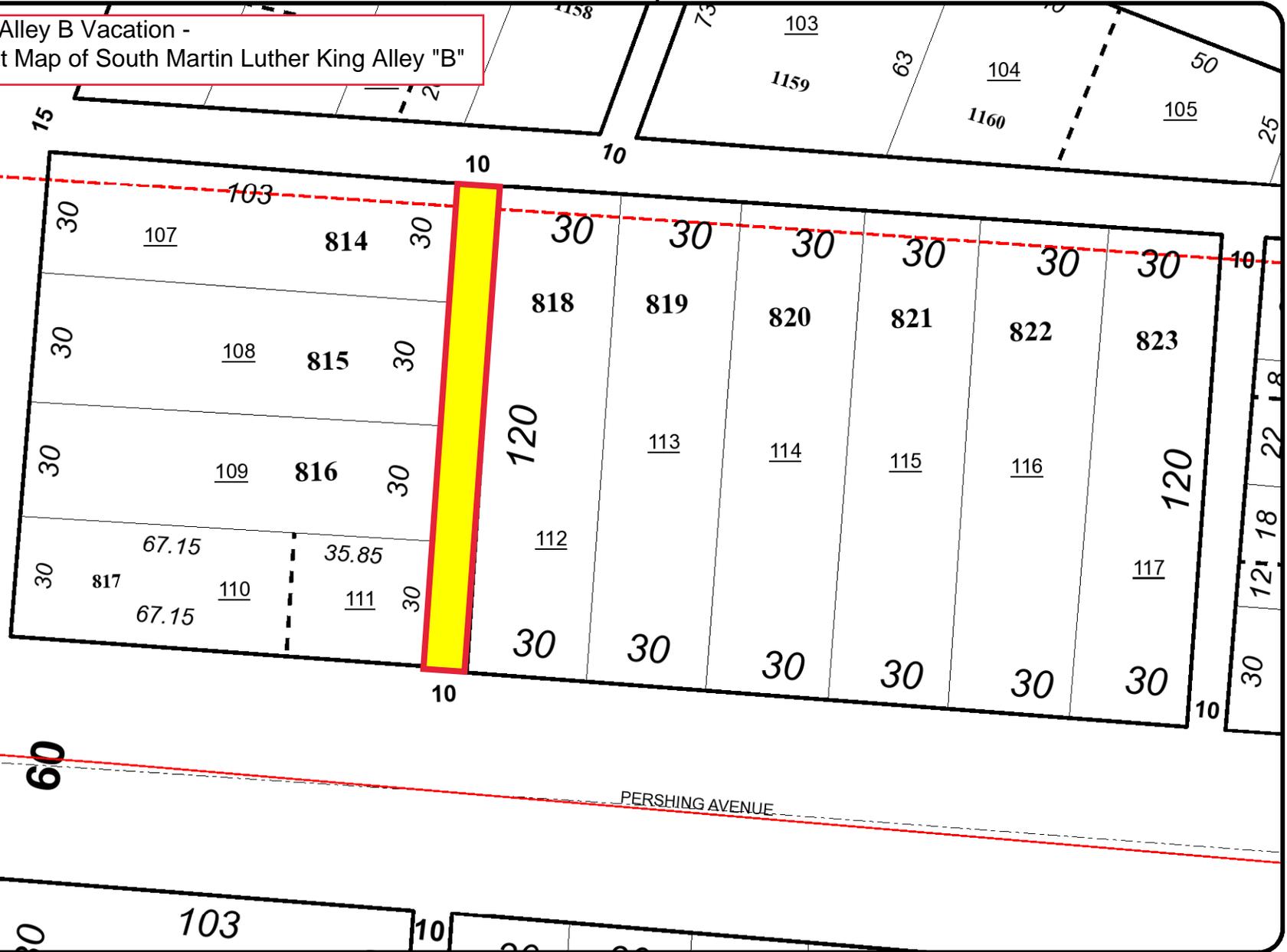
South MLK Blvd Alley B Vacation -  
Exhibit B - Exhibit Map of South Martin Luther King Alley "B"

SECTION 02  
TOWN 1  
RANGE 3

SECTION 01  
TOWN 1  
RANGE 3

66

4TH STREET



BUTLER COUNTY ENGINEER'S OFFICE



GREGORY J. WILKENS, PE., P.S. BUTLER COUNTY ENGINEER

August 7, 19

In using this map provided by the Butler County Engineer's Office, you accept the data as is, without warranty of any kind, either expressed or implied. The Butler County Engineer's Office shall not be held liable for any claim for any loss or damage as a result of reliance on the information contained in this website

## City Council Meeting Caucus Report

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**TO:** The Honorable Mayor and Members of the City Council

**RE:** Major Amendment to Plan Hamilton adding the North End Corridor Revitalization Plan to the Plan

<input checked="" type="checkbox"/> 1 <sup>st</sup> Reading Date: 8-26-2020
<input checked="" type="checkbox"/> 2 <sup>nd</sup> Reading Date: 9-9-2020
<input type="checkbox"/> Resolution Date:
<input type="checkbox"/> Public Hearing Date:

Dear Mayor and Members of Council:

The proposal is a submitted request by Planning Staff on behalf of the North End residents to have the North End Corridor Revitalization Plan adopted as part of Plan Hamilton, the City's newly adopted comprehensive plan. The proposal represents a "Major Amendment" to Plan Hamilton. City Council takes final action to approve or disapprove a Major Amendment to Plan Hamilton.

The North End Corridor Revitalization Plan is a comprehensive study that catalogs existing conditions and gathers public input to establish a plan for neighborhood improvements, guides new development, and highlights investment opportunities within the North End. The plan was drafted by Miami University students in conjunction with the North End neighborhood, City of Hamilton staff, and input from community residents and organizations.

The plan focuses on the revitalization of North End, notably the main neighborhood corridor of Heaton Street. The plan proposes revitalization through the improvement of existing housing stock, streetscape improvements, activating vacant commercial properties, and improved amenities at key locations in the neighborhood, all while maintaining the integrity and character of the existing community. The study area is centered on Heaton Street, North Martin Luther King Boulevard, Route 4, and North Seventh Street. Critical areas studied include the following:

- Current land uses
- Community spaces
- Catalog of buildings/spaces that are being underutilized
- Issues facing the community
- Visualizations of potential land uses
- Gateway signage and neighborhood features
- Streetscape improvements
- Potential for green space improvements
- Targeted revitalization efforts
- Suggestions for investments to best serve the community members



**Planning Commission Recommendation:**

On July 16, 2020, the Planning Commission held a public hearing and recommended that City Council approve the North End Corridor Revitalization Plan, using the following motion:

- 1) That the Planning Commission provides a favorable recommendation to City Council to approve the North End Corridor Revitalization Plan.

It is the recommendation of this office that Council receives this report, concurs in the recommendation, and directs the preparation of the necessary legislation.

Sincerely,

Caucus Report Prepared By:

Joshua A. Smith  
City Manager

Ed Wilson, AICP  
Associate Planner II

**Choose Strategic Goal(s)**

- I** *Generate 125mm in new private investment*
- J** *Increase gross wages paid by Hamilton Employers by \$100mm*
- P** *Exceed total county growth rate median home sale prices*
- R** *Generate \$40mm in investment for recreational amenities*
- E** *Engage 50,000 participants annually in special events, arts and recreation activities*
- O** *General Operations/ Government Business*

**Attachments:**

- 1) Exhibit A - North End Corridor Revitalization Plan
- 2) Exhibit B - Planning Commission Staff Report, July 16, 2020



# North End

## Exponential Potential

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### Corridor Revitalization Plan





# **Contents**

- (1) Introduction
- (2) Our Process
  - (a) Goals/Objectives
  - (b) Public Engagement
- (3) Community Space
  - (a) Gateways
  - (b) Public Artwork
  - (c) Green Space
- (4) Connectivity & Streetscape
  - (a) Corridor Analysis
  - (b) Streetscape Improvements
- (5) Street Façade
  - (a) Comprehensive Overview
  - (b) Predetermined Approach
  - (c) Parcel Assessment and Results
  - (d) Targeting Revitalization Efforts
- (6) Economic Development
  - (a) Adaptive Reuse of Industrial Buildings
  - (b) New Residential Development
  - (c) Activation of Vacant Commercial Spaces
- (7) Implementation
- (8) Conclusion
- (9) About Us

An aerial photograph of a residential neighborhood. The image shows a mix of house styles, including a prominent white two-story house with a porch on the left, and a red brick building in the center. A road with a yellow center line runs diagonally from the bottom left towards the top right. The background is filled with more houses and green trees. The overall scene depicts a revitalized urban area.

# Introduction

A Revitalized North End

## Introduction: Planning a Stronger North End

The North End neighborhood is one of Hamilton's Seventeen Strong neighborhoods. At its peak, the area was a blue-collar neighborhood closely tied to the surrounding paper mills and other industries. However, as the factories closed, the neighborhood fell into decline. Although this neighborhood maintains many community strengths, we recognize the limitless potential for revitalization. With proper investment and new initiatives, the North End can return the neighborhood to the thriving place that it used to be.

Revitalization planning can help identify areas for improvement to guide policies, public and private investment, and shape new development. Our team of student planners created a plan focused on the Heaton St. corridor between Route 4 and Martin Luther King Jr. Blvd. Our revitalization goal can be completed through improvements to community space, streetscaping, connectivity, and economic development. In acknowledgment with the recently adopted Plan Hamilton, we created neighborhood-specific initiatives that align with both Plan Hamilton as well as community desired goals. With the strategies presented in this plan, the North End can once again become a thriving neighborhood.



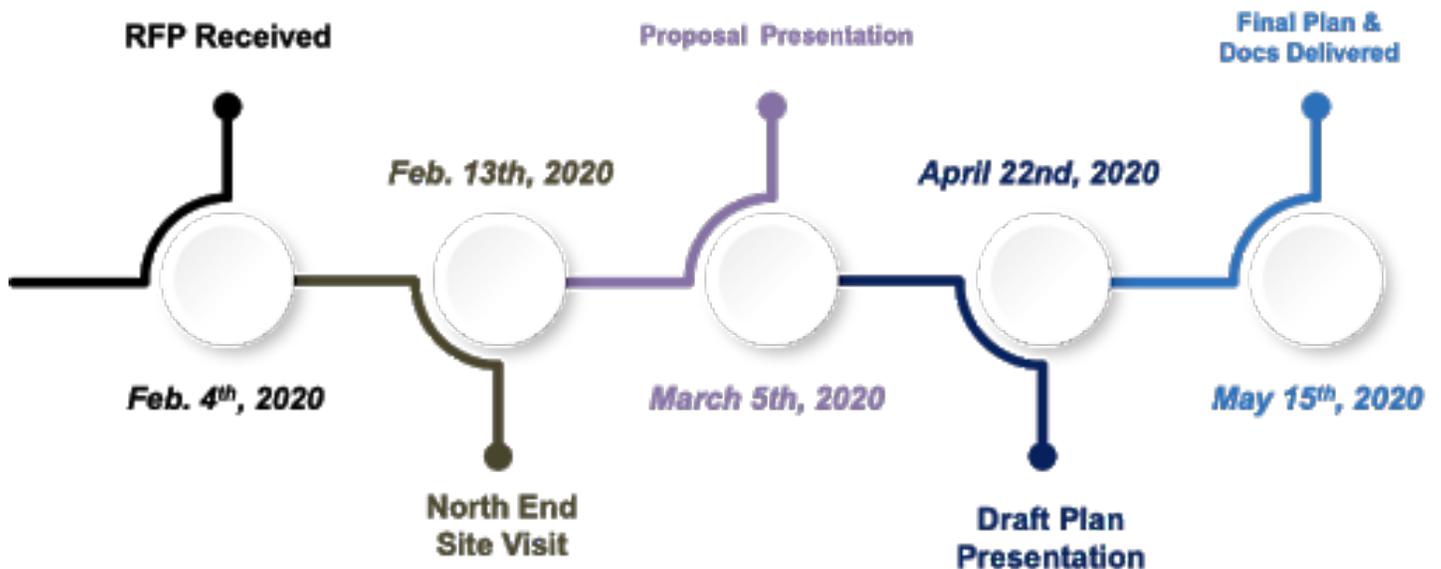
An aerial photograph of a residential neighborhood. In the foreground, a paved road with yellow lane markings runs diagonally from the bottom left towards the top right. Several cars are parked along the side of the road. To the left of the road, there are several houses of varying colors, including white, yellow, and red. Some houses have porches and are surrounded by green lawns. In the background, there are more houses and a dense line of green trees. Further back, there are larger, multi-story buildings, possibly apartment complexes or commercial buildings, interspersed with more trees. The overall scene depicts a typical suburban or urban residential area.

# Revitalization Planning

A Multifaceted Process

# Public Engagement: A Multi-Step Process of Analysis and Community Engagement

As elaborated in our request for a proposal and in Plan Hamilton, we were tasked with creating contextually appropriate revitalization strategies for the North End. This entails an analysis of the social and built environment, followed by recommendations stemming from best practices and methods. In order to produce a quality corridor revitalization plan, we conducted a site visit, presented best practices to a variety of stakeholders, presented a draft of our recommendations, and eventually completed a finalized corridor revitalization plan.



Detailed map of our planning process

## *Site Visit*

In order to better understand the needs of the community, our group turned towards public engagement. Our first interaction with the neighborhood was during our initial site visit in February. During this visit, we got a better sense of the state of the neighborhood. Additionally, we were able to interact with some of the residents and understand some of the challenges that the North End faces.



## *Proposal Presentation*

As a precursor to our charette, we wanted to introduce our team and elaborate on best practices used successfully in neighborhoods across the country. We presented a series of successful examples within the following best practice methods: community vibrancy, complete streets, community space, connectivity, and economic development. Our goal with the proposal presentation was to set the stage for the community members for the following activity, the charette.

We are grateful to have residents, community leaders, and city employees in attendance. The feedback that we received was constructive and fairly representative of many residents living in the North End neighborhood.

## Community Input Workshop

To develop a better understanding of the specific goals of the residents, our group conducted a workshop in early March. The group was made up of residents, community leaders, and city employees. During the exercise, we asked the participants various questions regarding their views on the neighborhood and to mark up various maps. Some examples of questions include: where they view the borders of the North End, the best places for a gateway into the neighborhood, and areas for redevelopment.



## Goals/Objectives

After our workshop exercise with community members, we had a better idea of the goals we should have for this neighborhood plan. We also took into account the broader goals for the city of Hamilton specified in Plan Hamilton. The following goals will help to guide the North End in their revitalization process.

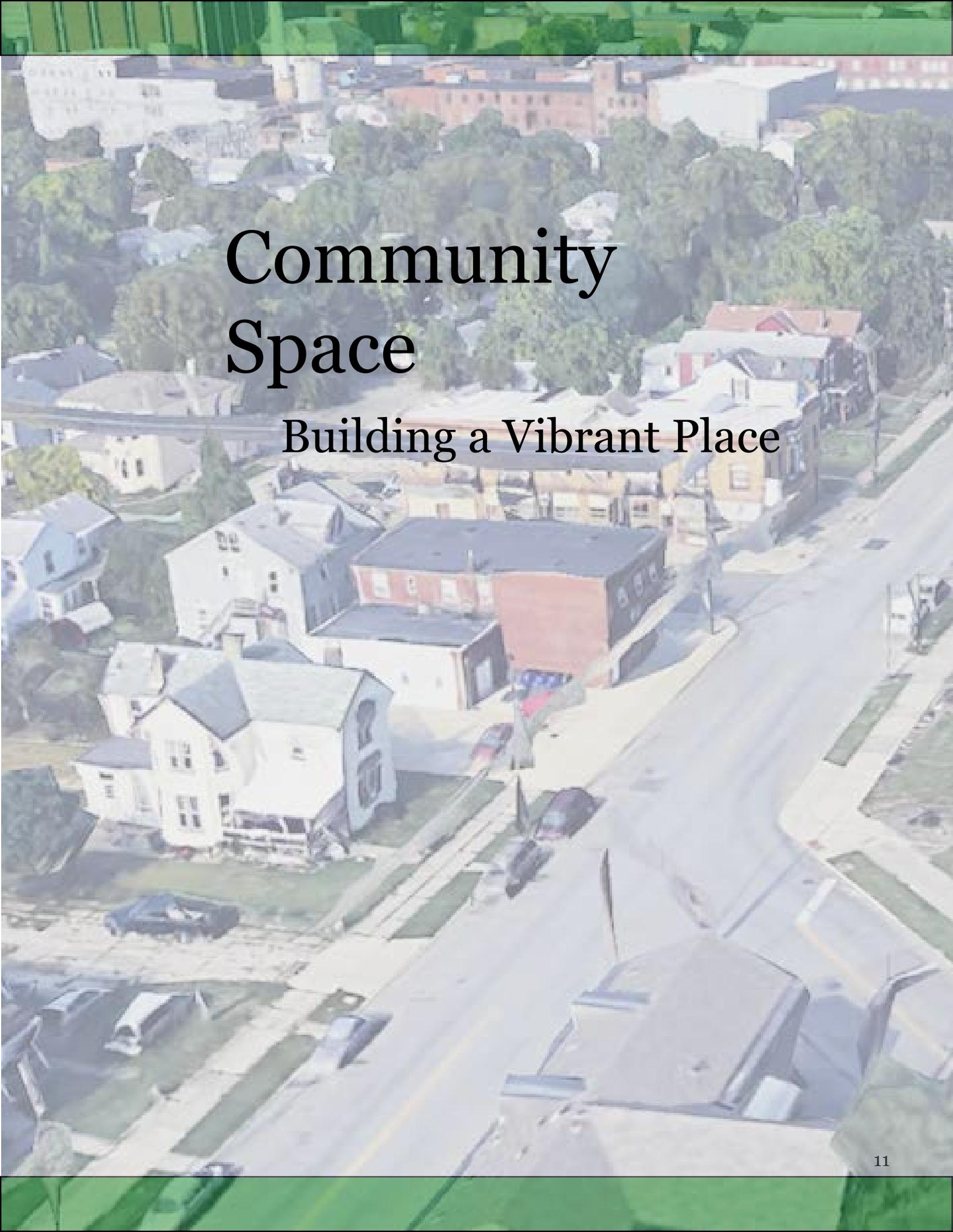
### Plan Hamilton goals

- Create a sense of place in our 17 neighborhoods
- Create a vibrant community
- Introduce high-quality parks to residents and visitors
- Land use and development policies align with community objectives

### North End Goals

- Improve neighborhood vibrancy
- Create connections with the surrounding neighborhoods
- Improve infrastructure for pedestrians and cyclists
- Create more economic opportunities



An aerial photograph of a residential neighborhood. The scene shows a mix of single-story and two-story houses, some with porches and lawns. A paved road with a yellow center line runs diagonally through the lower half of the image. There are several cars parked along the road. The background is filled with more houses and a dense line of green trees. The overall atmosphere is that of a quiet, established community.

# Community Space

Building a Vibrant Place

# Community Space

## Gateways

Neighborhood gateways establish a sense of place and an inviting atmosphere. Entrance signage is typically the first vibrancy feature that greets both visitors and members of the community upon arriving into the neighborhood. In order to truly establish Heaton Corridor as a gateway to Hamilton, the North End should incorporate entrance signage.

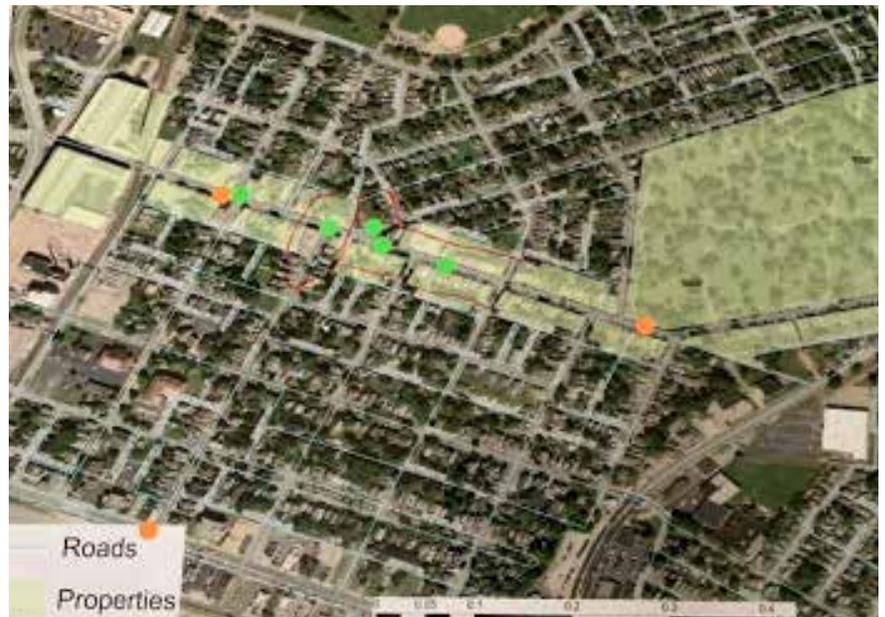


*Gateway sign in Hamilton, Ohio*



*Monument sign (pole-mounted) in Parksville, B.C.*

Stakeholder input helped us define neighborhood boundaries and optimal gateway locations. Attached is an image of a map utilized during the charette. The orange stickers were placed by community leaders and represent areas that they believe are entrances to the North End.



*North End map marked up by community members*

## *Alternative Gateway Signage Styles and Locations:*

### **Monument Signage (Pole Mounted):**

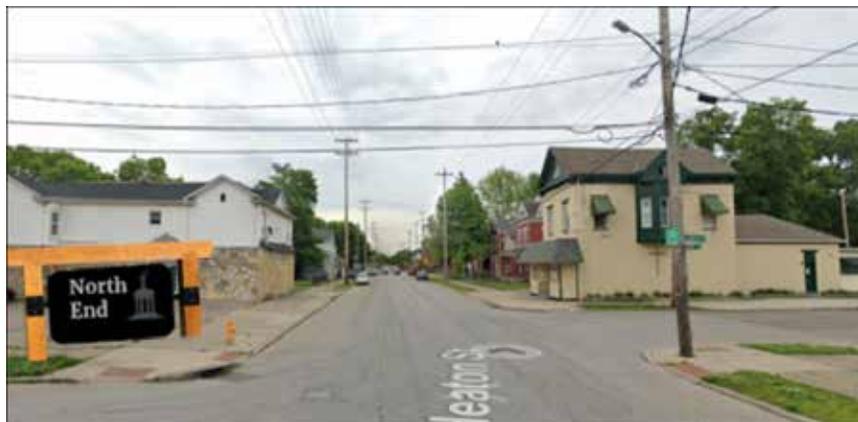
Locations like Heaton and N 6th are important for signaling entrance into the neighborhood. A monument sign would be a good use of any corner lots similar to the one in the following image.



*Rendering of potential pole mounted monument sign at Heaton & N 6th*

### **Monument Signage:**

Other possible locations, such as High and N 7th, are perfect areas for larger entrance signage. A pole monument style sign can be placed in areas where there is limited sidewalk space, such as in the following image.



*Rendering of potential monument sign at High and N 7th*

## Overhead Gateway:

The most impactful entrances into the neighborhood were identified at Heaton and MLK as well as Route 4 and Heaton. Incorporating an overhead sign paired with North End inspired murals should be used to greet both visitors and neighbors. Additionally, Route 4 and Heaton could utilize a monument sign with various flowers to create a friendly entrance. That being said, these entrances can cement Heaton Corridor as the “gateway to Hamilton”.



*Conceptual rendering of a gateway entrance at Heaton and MLK*



*Conceptual rendering of a monument sign with flowers at Route 4 and Heaton*

## Public Artwork

### Murals: “Building a sense of community”

Murals are used as an outlet to showcase the history of a neighborhood, provide direction towards the future, or simply convey a story. In addition to building a strong sense of community, murals attract activity and make the surrounding area more walkable.

While our plan highlights possible mural locations, mural theme and execution would be coordinated between StreetSpark and the Community. Themes mentioned by stakeholders included baseball legend Joe Nuxhall and manufacturing history (ex. Ford TractorPlan).



Renderings of murals: Minnick's & Food Town



Painted hydrants enhance vibrance across Hamilton and could be expanded along Heaton.

### Fire Hydrant Art: “Creating a vibrant neighborhood”

Fire hydrant painting is an example of a fairly low-cost vibrancy technique. By painting various fire hydrants in a given community, the neighborhood is adding both and flair. The abundance of fire hydrants on Heaton St. mean that there are endless possibilities for local involvement. StreetSpark is a public art program that works to install various art projects throughout the city of Hamilton. The hydrants to the left are examples of painted Hamilton hydrants. While some hydrants have already been painted in the North End, more could provide vibrancy on Heaton St.

## Community Gardens

Community gardens have been used in neighborhoods across the country due to the vast array of benefits attached with them. Not only do these community incubators create a stronger sense of belonging among community members and provide healthy food for the surrounding neighborhood, but they also make efficient use of vacant land.

Potential locations for community gardens identified during our community input workshop are as follows:

- Heaton & N 10th
- 927 Vine (across from the Hamilton North End Market)



*Conceptual rendering of a community garden at N 10th & Heaton*

## Recreational Areas

One of the ideas behind recreational green space is to rehabilitate existing parks and vacant lots into viable options for the community to exercise and enjoy. The focal point identified by the North End Community members was the Joe Nuxhall Baseball Field. By revamping the vacant field adjacent to the baseball diamonds into multiple soccer fields, there can be more utility and more green space.



*Rendering of Joe Nuxhall Fields repurposed for Spooky Nook sports.*

An aerial photograph of a residential neighborhood. In the foreground, a paved road with a yellow center line runs diagonally from the bottom left towards the top right. Several cars are visible on the road. To the left of the road, there are several houses of varying colors, including white, blue, and red. The houses are surrounded by green trees and lawns. In the background, more houses and a larger building are visible, along with a dense line of trees. The overall scene is a typical suburban or urban residential area.

# Streetscape

Safe Mobility and Livability

# Connectivity

Plan Hamilton places an emphasis on improving mobility and livability. North End streets are both transportation corridors and neighborhood centers. Connecting Heaton St. with abutting neighborhoods, such as Dayton Lane, parks, and the multi-use trail along the Hamilton Hydraulic Canal will improve mobility and livability. As one of Hamilton’s traditional neighborhoods, the North End features existing connectivity features such as sidewalks on both sides of the road. In order to identify how we can build upon the current elements connecting the North End, we discussed common routes and daily routines that residents within the North End use.

## *Corridor Analysis:*

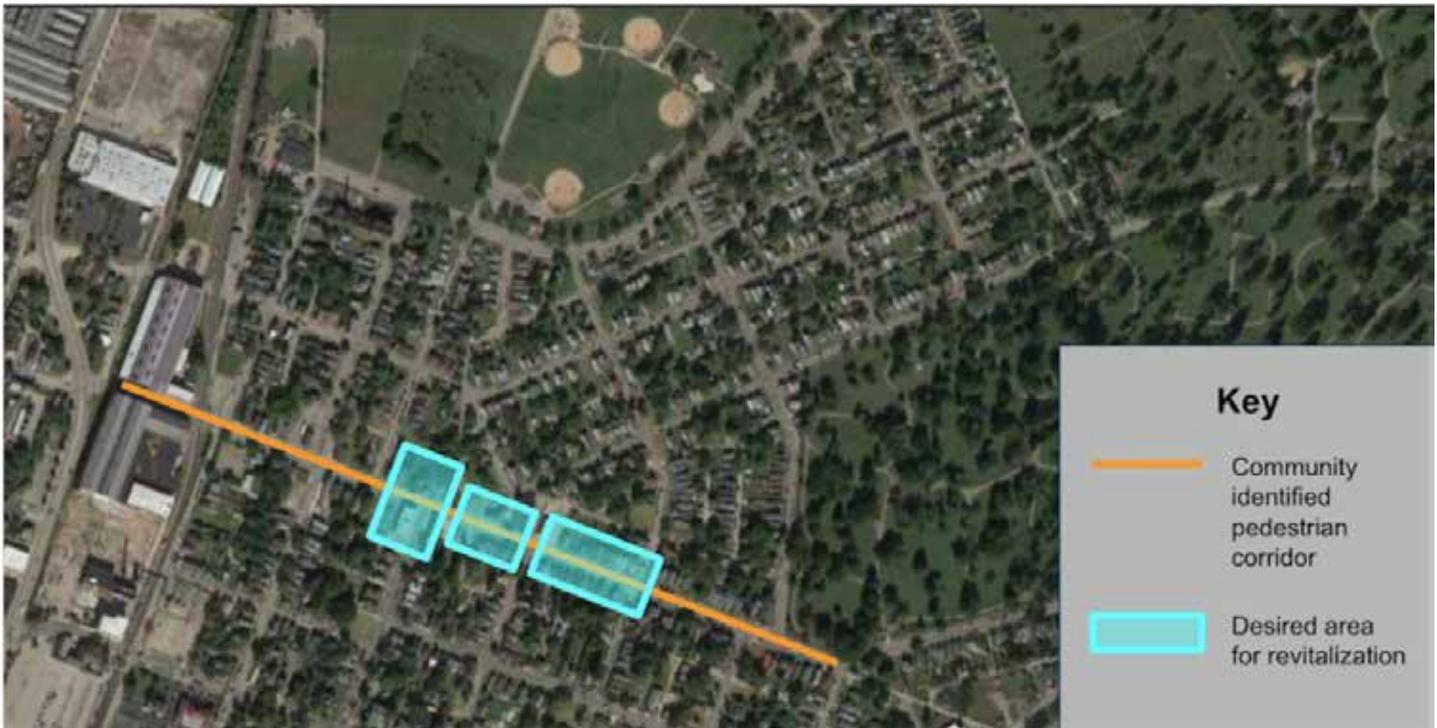
### Biking Corridor



*Community identified biking corridor based on community input workshop*

The community leaders in our workshop identified a desire to be greater connected to Joe Nuxhall Field. Currently, there is a dedicated bike lane on Joe Nuxhall Blvd., stretching from N 6th to where Joe Nuxhall Blvd becomes Campbell Dr. A possible way to connect Joe Nuxhall Field to Heaton St., one of the North End’s main arterials, is through dedicated bike lanes on both Heaton and N. 7th St.

## Primary Pedestrian Corridor



Heaton is both a major corridor for pedestrians as well as vehicles. Our reasoning is that community members have identified this major artery in the North End as where they would like to see the most revitalization. This, partnered with Plan Hamilton’s goal of promoting walkability, is a strong reason to target Heaton as a “gateway to Hamilton”.

## Recreational Corridor



Joe Nuxhall Field was mentioned a multitude of times during our community input session. Community leaders expressed their interest towards the possibility of incorporating a vast area of recreational activities at Joe Nuxhall Field. Not only would this make the fields more appealing to Spooky Nook visitors, but the fields would be more functional for the North End community.

# Streetscaping

## *Existing Conditions*

The streetscaping improvements will mainly be focused along Heaton Street, as it is a main corridor in the neighborhood. The street will also become a major thoroughfare with the opening of the Spooky Nook Sports complex, which will lead to an increase in traffic. Our goal as emphasized by the North End community is to focus on improving pedestrian safety as well as traffic calming. This goal will be accomplished through implementing principles of Complete Streets.



*Existing Heaton St at N 7th St*



*Existing Heaton St at Greenwood Ave*

## **What are Complete Streets?**



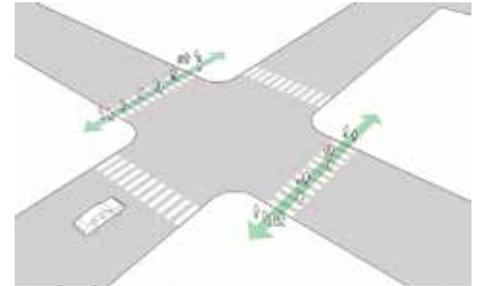
*Complete street template from NACTO Urban Street Design Guide*

Complete streets are streets designed with best practices to be safe and accessible for all users, of all ages and abilities.

# Pedestrian Safety and Traffic Calming

## Marked Crosswalk

Reduces pedestrian-vehicle conflict by designating an area for pedestrians to cross the street. Using a stripe pattern in the crosswalk.



Marked crossing. Source NACTODesign

## Rapid Flashing Beacon

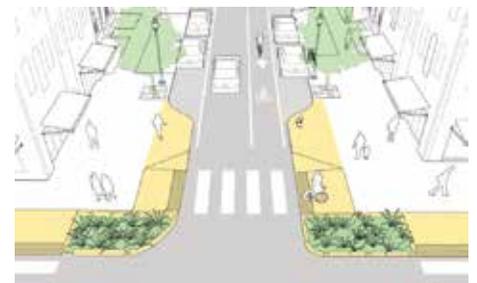
Alerts motorists of pedestrians in the crosswalk, to ensure yielding and decrease any conflict.



Rapid flashing beacon. Source TAPCO

## Curb Extension

Reduces crossing distance for pedestrians by extending the sidewalk into the parking lane. They also calm traffic as well as provide opportunities for street trees or planters.



Curb extension. Source NACTO

## Vertical Speed Control Elements

A portion of the road or an entire intersection is raised 3"-3.5". Encourages yielding to pedestrians in crosswalks and calms traffic.



Raised intersection. Source NACTO

# Possible Pedestrian Safety Improvements and Locations

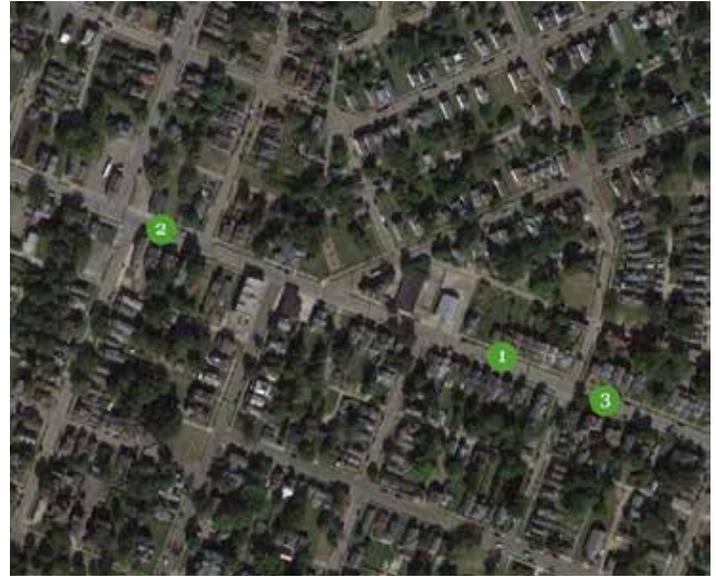
Pedestrian safety is one of the main improvements to be made in the North End. Currently, there are only two marked intersections on this section of Heaton Street. During the charrette exercise, stakeholders indicated areas along Heaton Street that needed a crosswalk. Each crossing can be accompanied with rapid flashing beacons.

Locations for marked crosswalk

- Heaton and N 6th (Location 2)
- Heaton and N 9th (Location 3)

Location for Speed Table

- Heaton between N 8th and N 9th (Location 1)



*Possible locations for crosswalks*

## Existing



*Possible speed table at Heaton St. between N 8th St. and N 9th St. with rapid flash beacons.*

## Recommended



## Existing



*Potential marked crossing at Heaton St. at N 6th St. with rapid flash beacons.*

## Recommended



## Existing



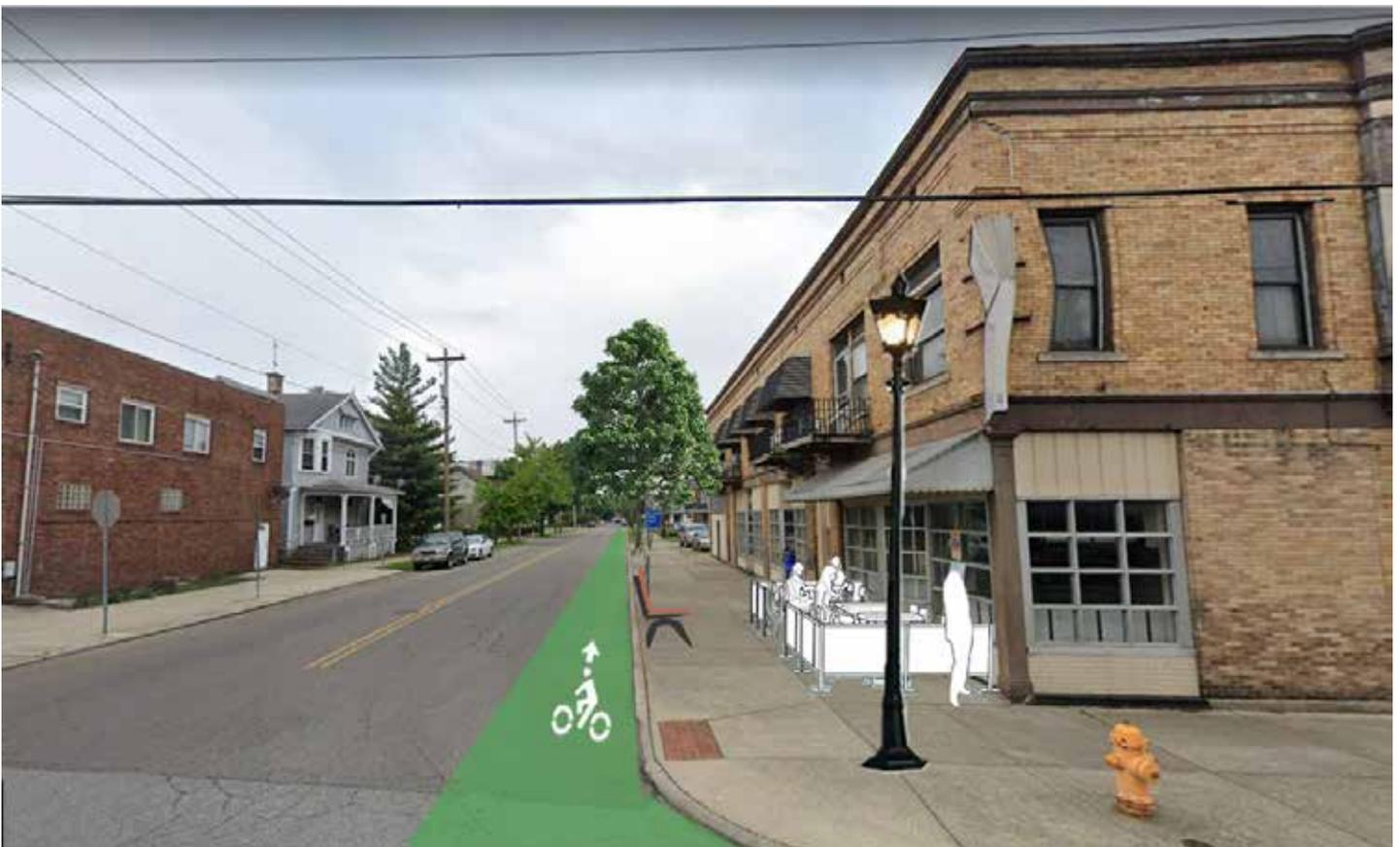
*Possible marked crossing at Heaton St. at N 9th St. with rapid flash beacons.*

## Recommended



## Sidewalk Enhancement to increase accessibility

In addition to pedestrian safety, sidewalk enhancement is also critical to the success of pedestrian-oriented mobility. Enhancements such as added benches and street trees create a welcoming environment for pedestrians, promoting walking. Additionally, businesses are encouraged to utilize the front of their building in order to create a more vibrant experience. Beyond the sidewalk are areas designated for cyclists, promoting safe mobility.



*Possible street furniture on 7th and Heaton Street with colored bike lanes.*

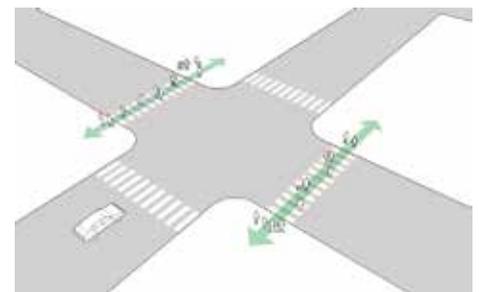
# Heaton Street & Greenwood Avenue Intersection



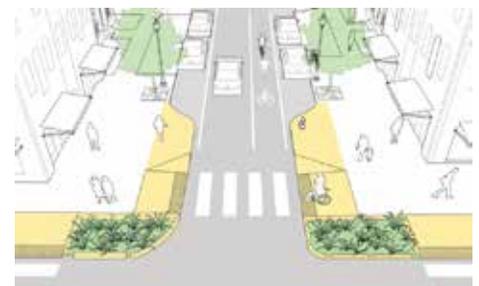
1. **Raised Intersection-** The entire intersection is raised 3-3.5 inches to enforce yielding to pedestrians as well as slower speeds.



2. **Marked Crosswalks-** Designated areas for pedestrians to cross marked by stripes to reinforce pedestrian safety accompanied by rapid flashing beacons.

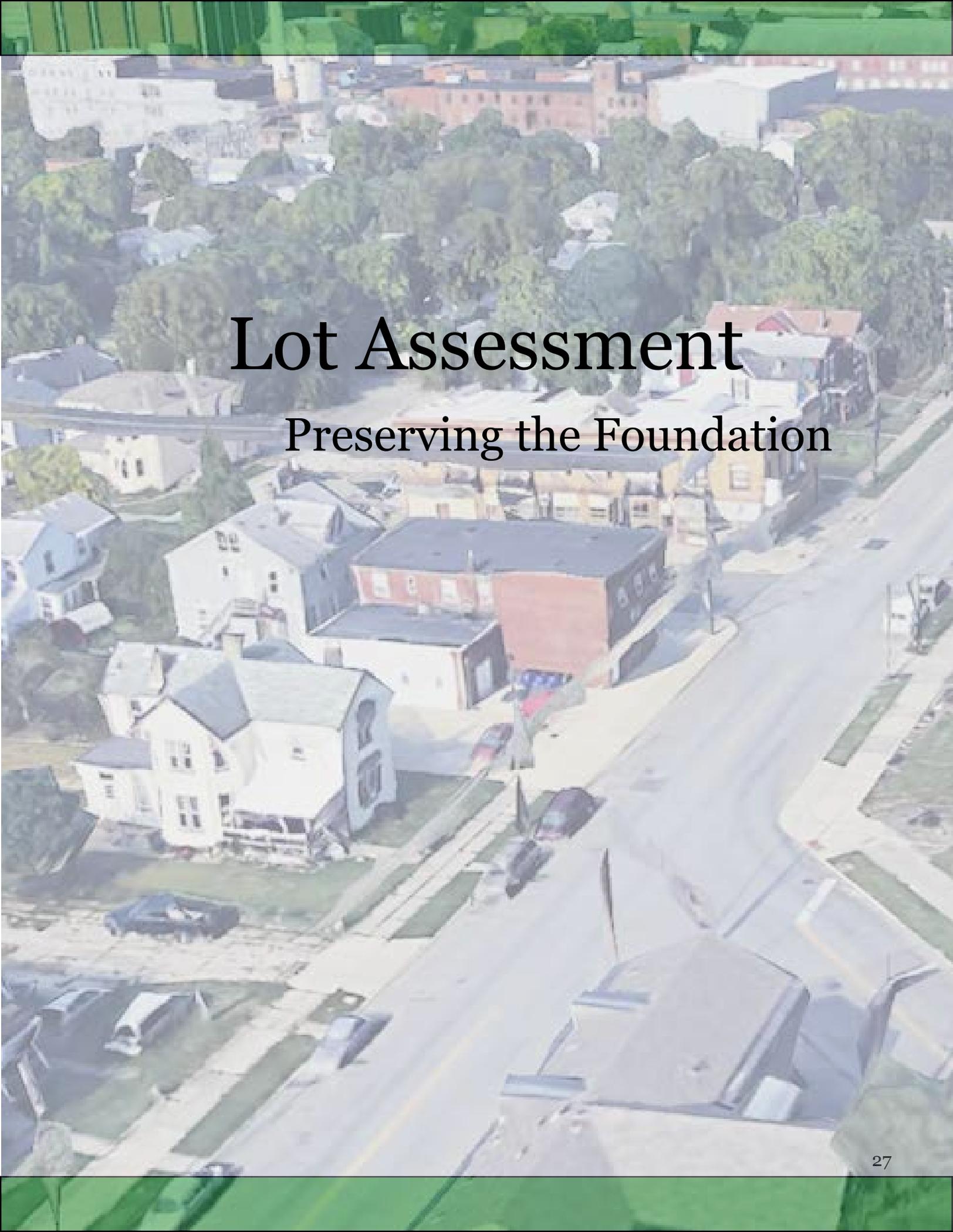


3. **Curb Extension-** Extension of the sidewalk into the parking lane. Decreases crossing distance for pedestrians and calm traffic.



4. **Street Trees or Planters-** Encourages walkability and improves the sidewalk landscape, making it more inviting to pedestrians also has traffic calming effects.



An aerial photograph of a residential neighborhood. The houses are mostly two-story structures with various roof colors and styles. There are many green trees scattered throughout the area. A road with a yellow center line runs diagonally from the bottom left towards the top right. The overall scene is a typical suburban or urban residential area.

# Lot Assessment

## Preserving the Foundation

# Street Façade

## *Comprehensive Overview*

The importance of the Heaton Street Façade will be a direct reflection of the first impressions that visitors will have both coming into and leaving Hamilton’s Spooky Nook Complex. Heaton Street is a prime area for the North End Residents to showcase their character and channel redevelopment assessment and funding. Buildings along Heaton Street provide the face of the North End. While rich with historic architecture, many structures need reinvestment and revitalization. This comprehensive overview of the Heaton Street Corridor is intended to guide the implementation of best practices set forth in this plan.



Through both windshield surveys and in-person analysis of the exterior housing, all properties adjacent to Heaton Avenue were evaluated. The existing conditions were then inventoried and assessed for redevelopment and reinvestment potential.

## *Predetermined Approach*

The City of Hamilton has initiated the beginning of a Block by Block building Analysis Tool. The City of Hamilton's Neighborhoods team used this property rating key to assess property conditions in both the North End and Lindenwald neighborhoods to pilot a blight assessment tool.



This same Building Analysis Tool has been implemented on the Heaton Street corridor for a more in-depth analysis of the property condition. Through both windshield surveys and an in-person assessment, the housing exteriors were evaluated. The primary focus of the assessment was on properties directly adjacent to Heaton Street, although properties within the same block and on streets visible to Heaton Street have also been considered for redevelopment and further assessment.

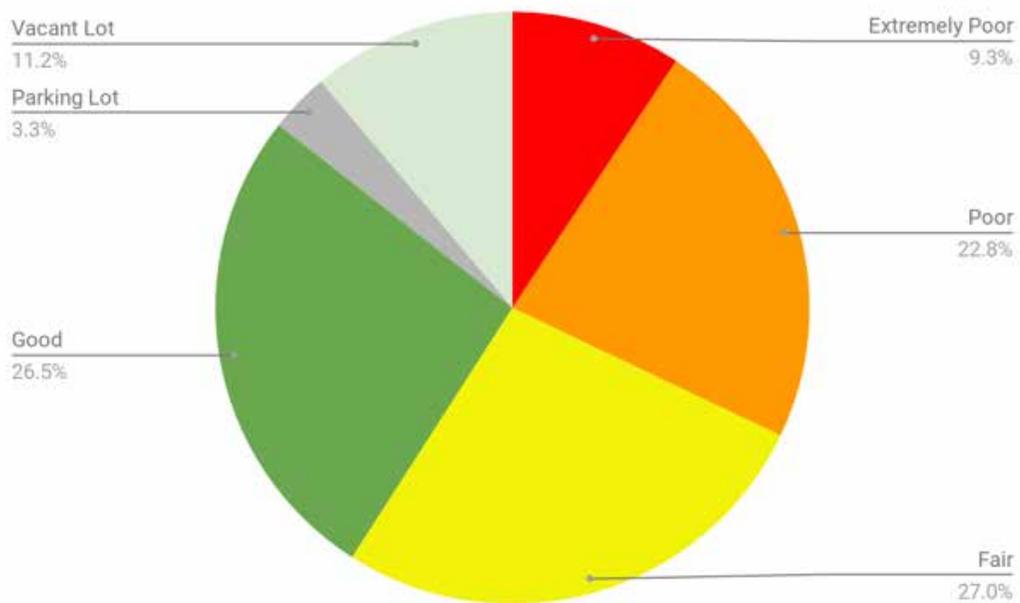
## *Parcel Assessment and Results*

The following map is the current analysis of the Heaton Street corridor. This street is the leading area expected to experience an influx of visitors bringing both traffic and economic opportunity. Although the Heaton Street Façade is in disrepair, investment redevelopment here will create a wealth of revitalization and economic vitality. The North End Neighbors are focused on this area and redirecting community driven tools as well as city reinvestment, non-profit, and private pay tools. Through the analysis of these properties, you can see what areas are mostly devastated and which areas need minimal intervention. This tool enables a strategic approach to acquisition, investment, and intervention.

As a key to this map it is important to consider the following:

Conditions considered are both temporary and significant conditions. Properties graded at a one (red) or a two (orange) are suffering from significant and possibly structural damage. Properties graded at a 3 (yellow) or a 4 (green) have little to no exterior damage but may need minor exterior cleanup and restoration. Additional considerations that should be assessed are proximity to park space, vacant buildings, and empty lots.

The overall analysis gives us the following results:



## Vacant Properties

Vacant properties hold a substantial amount of ground on Heaton Street. As vacant properties currently sit unused, there are missed opportunities to make a blank space a beautiful place. The hazards that come along with vacant properties ultimately end up costing neighbors and municipalities far more in the long run.

The results of the block by block analysis on Heaton Street showed there was an empty and vacant lot identified on all but one block.

Vacant Buildings graded at one (1) are damaged beyond repair and are prime areas for vagrancy loitering and fostering illegal activities. Vacant buildings in poor conditions are a leading hazard for fire damage in neighborhoods and are prime locations for the allocation of demolition funds.

Empty Lots yield endless possibilities. These are places where both community members and other stakeholders can take advantage of low maintenance opportunities for community vibrancy.

Empty Lots yield endless possibilities. These are places where both community members and other stakeholders can take advantage of low maintenance opportunities for community vibrancy.



## *Targeting Revitalization Efforts*

The following are tools that can be applied to the North End to help facilitate growth and prosperity within the neighborhood.

### **Neighborhood Initiatives**

There are tools that are readily available to the North End Neighborhood to use on a smaller scale. The following are approaches the residents of the North End can use on a community-driven basis.

- Side lot program (City Intervention) serves as a means to get currently vacant lots into the hands of neighborhood residents. This applies to recently vacant lots that are directly abutting residential property. Side lot programs have guidelines and are implemented towards property owners in good standing with the City, as well as abiding by Health, Planning, and Zoning ordinances.
- Love your Block Implementation is a neighborhood revitalization grant from the to be used to support the efforts of citizen groups and local nonprofits to fight property blight through home repairs, lot transformations, and community cleanups.
- Micro-Grant Vision is intended to serve the residents of Hamilton by providing materials or reimbursable financial support for programs, projects, or events that promote citizen engagement, enhance the beautification of the neighborhood, and improve safety within the community.

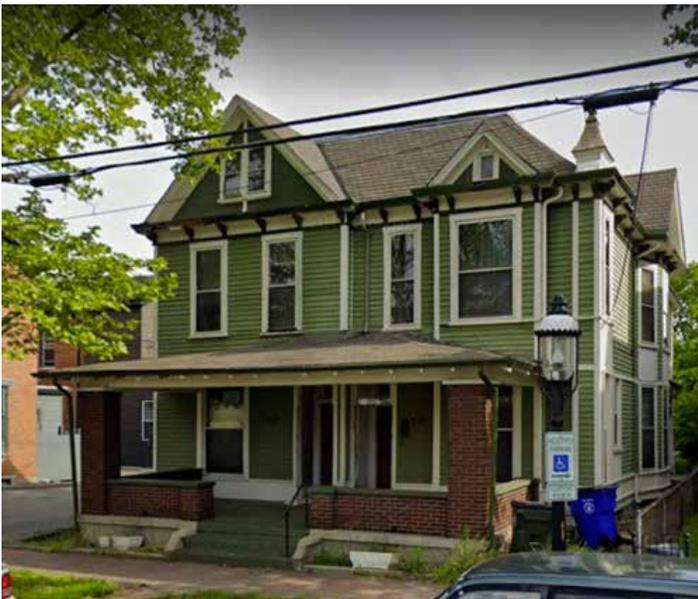


## *Residential Redevelopment*

The Neighborhood Housing Services (NHS) of Hamilton, Inc. is a nonprofit community development organization that revitalizes communities. The NHS, in partnership with residents, the business community, government, and community leaders work on infill development which in turn raises price points in the housing stock. NHS restores neighborhoods one lot at a time while keeping the historical essence of the neighborhood secure.



The application of the corridor analysis should be directed in a way that encourages growth in both the residential quality of life and economic vitality. Residential restoration and redevelopment have had a significant impact on economic success, health, safety, and have restored market comps in a



stagnant residential market. A multitude of private resources are available to the City of Hamilton and have a proven positive impact on revitalizing Hamilton's Traditional neighborhoods. Public-Private partnerships have been essential in both parks including Marcum Park, and have had tremendous success with restoration in historic neighborhoods such as German Village with the help of C.O.R.E.

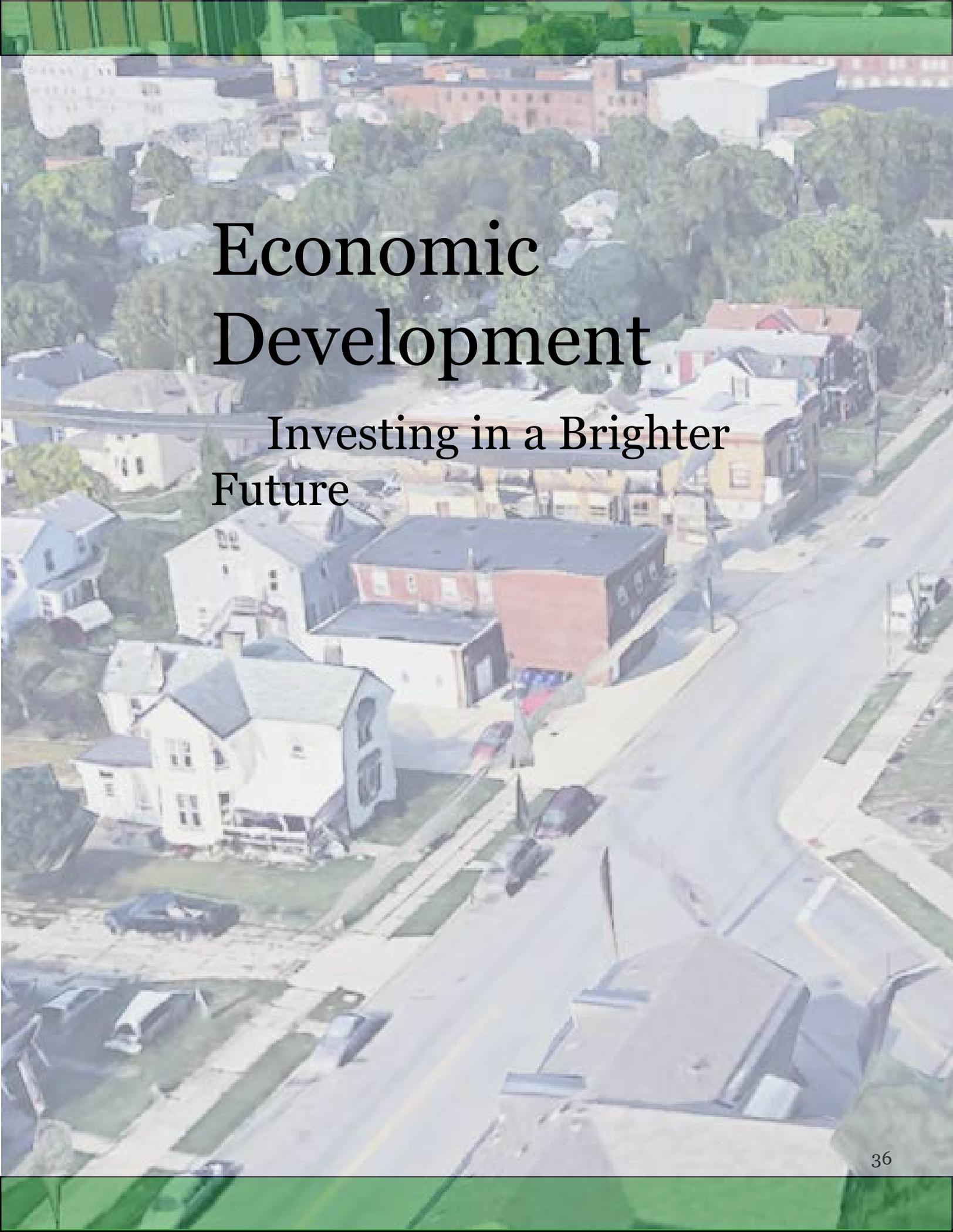
While the North End is deemed one of Hamilton's Traditional Neighborhoods, that does not take away the history that lies within the district. There are 28 historic structures still standing in Hamilton's North End Neighborhood. While most are on the southern end of Heaton Street, all contribute to the Historic essence and Heaton Street Facade.

# Historic Preservation

Investing in the North End's history dives deep into the German and Appalachian culture of the area. Celebrated for its industrial past and hard-working residents who thrived in it, these historic structures were once the homes of those who built the foundation of this neighborhood. The majority of the remaining historic buildings lie within a 4 block corridor which also happens to be surrounding the Heart of Heaton Street.





An aerial photograph of a residential neighborhood. The image shows a mix of house styles, including a prominent white two-story house with a grey roof and a red brick building. A paved road with a yellow center line runs through the scene. The background is filled with more houses and green trees. The overall scene is bright and clear.

# Economic Development

Investing in a Brighter  
Future

# Economic Development

## *Existing Conditions*

North End residents have expressed a strong desire for more economic development and increased investment in the neighborhood. The North End has a rich history as a home for hard-working people that made a living in the surrounding factories and mills. However, as the factories closed and jobs were lost, the once prosperous community began to decline. The initiatives we are recommending are meant to build off of recent momentum to reverse this trend and aim to attract new residents, visitors, and businesses to the North End.



*The North End is rich with historic architecture and spaces ripe for reinvestment and redevelopment*

## Activating Vacant Commercial

The North End has numerous vacant commercial spaces in prime locations. While attracting long-term tenants is often the priority, there should be a concerted effort to activate these spaces in some way until then. Our main recommendation is to encourage pop-up shops in these spaces until long-term tenants can be secured. Pop-up shops provide some revenue for property upkeep, while also encouraging entrepreneurship and contributing to the vibrancy of the community.



*Potential vacant/underused commercial sites for activation*

Additional programs that could help secure longer-term tenants include the introduction of a lease guarantor program and encouraging leases based on percent rent. The lease guarantor program would involve a community organization guaranteeing a portion of commercial leases to reduce the default risk to landlords for taking on a new to market or unproven tenant. The use of percent rent lease agreements would base the rent paid by tenants on their revenue to reduce the risk of opening. This could be especially useful to employ if the city acquires any commercial spaces in the neighborhood.



*Potential vacant activation at 363 N 7th St*



*Glencove Building Cleveland, OH after reactivation*

## *New Residential Development*

The North End has a strong desire to improve the quality of their housing stock and to attract new residents to vacant and dilapidated homes. The area is designated as a traditional neighborhood, which is characterized primarily by higher density detached single-family homes and smaller multi-family properties, such as duplexes.

The primary focus going forward should remain on rehabilitating the existing homes when feasible. However, multiple contiguous vacant sites could be combined and lend themselves to slightly higher intensity projects, like townhouses. The successful completion of a larger new construction project in the neighborhood could encourage further development and raise housing standards throughout the neighborhood.

The reasons for pursuing this type of development include:

- Lower construction cost per unit than detached single-family homes
- Greater availability of government incentives than single-family homes
- Increased density without significantly deviating from current development patterns

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### Case Study: Infill Affordable Townhouse Project - Dayton, OH



Germantown Village was recently completed in Dayton, OH. The public-private partnership was built primarily on city-owned land and made use of the Low Income Housing Tax Credit Program and various government grant programs. It provides high-quality affordable housing and has spurred additional development nearby.

## *Adaptive Reuse of Industrial Buildings*

The opening of the Spooky Nook Sports Complex will undoubtedly bring visitors from all over the country to Hamilton, Ohio. The North End's close proximity to the Spooky Nook complex puts it in a prime location to reap the economic benefits of this if the neighborhood can create compelling reasons to visit. One of the North End's greatest assets is the former paper mill at the edge of the neighborhood.

### The Vision:

Former industrial spaces like this paper mill can provide a focal point for mixed-use redevelopment to attract visitors, while also providing benefits for current residents. Possible uses are virtually limitless and could include retail, office, multifamily, or even hospitality uses. The goal would be to attract a mixture of uses and model the project off of other successful adaptive reuse projects throughout the United States.



Abandoned paper mill: Hamilton, possible location for mixed use redevelopment

## Successful Adaptive Reuse Projects



Retail Farmers Market: Findlay Market has helped catalyze mixed-use development in Cincinnati, OH



Art and Entertainment Venue: The Mellwood Arts Center attracts visitors for art exhibitions in Louisville, KY



Residential: A Wonder Bread bakery brought a restaurant and new housing options to Columbus, OH



Hospitality: a former engine factory has become one of the best hotels in Oklahoma City, OK



An aerial photograph of a residential neighborhood. The scene shows a mix of house styles, including a prominent white two-story house with a porch and a red brick building. A road with a yellow center line runs diagonally through the lower half of the image. The area is surrounded by green trees and lawns. The overall tone is slightly desaturated.

# Implementation

## Step-by-Step Growth

## Implementation Phases

Implementing our North End revitalization plan will take a lot of time, resources, and planning. In order to make the transformation as feasible as possible, we believe that it should be approached on a phase by phase basis. The initial phases would require the least amount of resources with a focus on short term growth. The final phases would require the most resources and planning but would yield the most significant impacts on the North End community.

### *Phase 1:*

The facilitation of community space and city beautification initiatives can be done in the early stages of our revitalization plan. This phase needs to be done closely with the North End community members in order to be as impactful as possible. Additionally, public art needs to be incorporated to reflect local culture and the vision of the North End residents.



## *Phase 2:*

Working with the Ohio Department of Transportation, the city can begin to implement the strategies outlined while following the guidelines set in place. Starting with the easiest strategies would build interest and create momentum throughout the entirety of the phase. For funding, the Ohio Department of Transportation has a grant program to help with new streetscaping as a way to promote alternative modes of mobility. Additionally, a Hamilton streets levy was recently passed



## *Phase 3:*

The pinnacle of housing facade rehab is identification and implementation of preservation strategies. Vacant lot activation would be the initial focus. This would occur through the side lot program, urban and community gardens and parklets. The neighborhoods team can help facilitate grant proposals and projects. The second and most time consuming task would be to get stakeholders involved in the negotiating of housing stock redevelopment. Lastly, it will be necessary for public and private resources to come together (CORE and NHS) to facilitate these commercial and residential projects.



## *Phase 4:*

The economic development initiatives in this plan are bold ideas that will take time to implement and often require collaboration with the private sector. The focus at the beginning of implementation should be creating the recommended programs that will be easier to implement than many of the specific projects. The first step for implementing the larger projects is connecting with the property owners and other stakeholders to sell them on the community's vision.



## Conclusion

The North End has been identified as one of Hamilton’s “17 Strong Neighborhoods” for its limitless potential for revitalization. Neighborhood-scale planning, focused on the Heaton St corridor, can build upon Plan Hamilton to meet the goals set out in the Plan Hamilton comprehensive plan: improve residents’ quality of life, the walkability of neighborhoods, creating a stable environment to grow businesses and jobs through redevelopment, and improving local connections to developing community assets. The rich history of the North End, the substantial areas of parks and recreation, and the higher densities within the community have inspired community leaders and now, our team, to dream big and have a bold vision for what the North End could be. We are beyond grateful to be part of this ongoing revitalization process and we thank the community for their invested time, and trust in our team.



## About Us

The North End Miami University Planning Team is composed of nine urban planning students with varying experiences and skill sets. We are thankful for the opportunity to work with the City of Hamilton and to the people of the North End for opening their community to us. Our goal is to communicate a vision highlighted by both North End residents and Plan Hamilton. Additionally, we want to provide a series of possible outlets to facilitate the creation of a revitalized North End.



Alex Macaуда - 2020, Finance, Urban and Regional Planning  
Madison Jeffries - 2020, Urban and Regional Planning  
Ryan Kelly - 2020, Finance, Urban and Regional Planning  
Gergana Stambolieva - 2021, Urban and Regional Planning  
Muchen Cao -2020, Geography, Urban and Regional Planning  
Christian Campisi - 2020, Urban and Regional Planning, General business minor  
Matt DeWine- 2020, Political Science Major and Urban and Regional Analysis Minor  
Mason Kuhn - 2020, Urban and Regional Planning  
Jessica Harp- 2020, Urban and Regional Planning



**Planning Department**  
 345 High Street, 3rd floor  
 Hamilton, Ohio 45011

For the Planning Commission Meeting of July 16, 2020

**To:** Planning Commission  
**From:** Daniel Tidyman, Associate Planner  
 Liz Hayden, Planning Director  
**Date:** July 16, 2020

**Subject:** AGENDA ITEM #5 – New Business  
 Major Amendment to Plan Hamilton adding the North End Corridor Revitalization Plan to the Plan.

**Date:** July 8, 2020

<b>BASIC INFORMATION</b>	
Applicant/Property Owner	City of Hamilton – Planning Department
Architect/Engineer/Consultant	N/A
Size of Property	N/A
Current Zoning	N/A
Proposed Zoning	N/A
Comp. Plan Land Use Designation	N/A
Special Purpose/CRA	N/A
<b>ADJACENT LAND USE/ZONING INFORMATION</b>	
N/A	
<b>ZONING/DIMENSIONAL INFORMATION</b>	
N/A	

**Section A: Introduction & Background:**

The North End neighborhood is one of Hamilton’s Seventeen Strong neighborhoods. At its peak, the area was a blue-collar neighborhood closely tied to the surrounding paper mills and other industries. However, as the factories closed, the neighborhood fell into decline. Although this neighborhood maintains many community strengths, we recognize the limitless potential for revitalization. With proper investment and new initiatives, the North End can return to the thriving place that it used to be. The plan was drafted by Miami students, City of Hamilton staff, and input from community residents and organizations.

Revitalization planning can help identify areas for improvement to guide policies, public and private investment, and shape new development. Our team of student planners created a plan focused on the Heaton St. corridor between Route 4 and Martin Luther King Jr. Blvd. Our revitalization goal can be completed through improvements to community space, streetscaping, connectivity, and economic development. In acknowledgment with the recently adopted Plan Hamilton, we created neighborhood-specific initiatives that align with both Plan Hamilton as well as community desired goals.

The City of Hamilton is pleased to provide accommodations to disabled individuals and encourage their participation in city government. Should special accommodations be required, please contact Community Development’s office at 513-785-7350 (24) hours before the scheduled meeting.



With the strategies presented in this plan, the North End can once again become a thriving neighborhood. Some of the recommendations made include:

- Gateways and entrance signage
- Public artwork
- Community gardens and recreation areas
- Bike and pedestrian path improvement
- Adaptive reuse of vacant properties

**Section B: Petition Review:**

The proposal is a submitted request by Planning Staff on behalf of the North End residents to have the North End Corridor Revitalization Plan adopted as part of Plan Hamilton, the city's newly adopted comprehensive plan. The proposal represents a "Major Amendment" to Plan Hamilton. City Council takes final action to approve or disapprove a Major Amendment to Plan Hamilton. The Planning Commission can choose to deny the proposed application or provide a favorable recommendation to City Council to approve the North End Corridor Revitalization Plan.

**Section C: Recommendation:**

The Planning Department recommends the following motion:

The Planning Commission provide a favorable recommendation to City Council to approve the North End Corridor Revitalization Plan.

**Section D: Staff Comments / Basis:**

1. The plan is consistent with recommendations of Plan Hamilton which call out for revitalization of neighborhoods surrounding the urban core.
2. The plan is consistent with recommendations of and goals of 17 Strong which identifies the North End and other neighborhoods in the City as inextricably tied to the overall success of the City of Hamilton.
3. The Plan provides a roadmap for future comprehensive study that inventories existing conditions and public input to establish a plan, or roadmap, to guide new development, neighborhood improvements, and investment opportunities within the North End.

*Report continued on the next page*





**Attachments:**

Exhibit A – [North End Corridor Revitalization Plan](#)



## City Council Meeting Caucus Report

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**TO:** The Honorable Mayor and Members of the City Council

**RE:** Contract with ProChamps to administer the Vacant Commercial & Industrial Property Registration Program

<input type="checkbox"/>	1 <sup>st</sup> Reading Date:
<input type="checkbox"/>	2 <sup>nd</sup> Reading Date:
<input checked="" type="checkbox"/>	Resolution Date: 8-26-20
<input type="checkbox"/>	Public Hearing Date:

Dear Mayor and Members of Council:

In early 2020, the City of Hamilton adopted Chapter 1507 of the Fire Prevention Code, creating a Vacant Commercial & Industrial Property Registration Program. The legislation was created to protect Hamilton neighborhoods from health and safety hazards created by a lack of adequate maintenance and security of vacant buildings, and is administered by the Hamilton Fire Department (HFD). The program requires the property owner of the vacant structure to register their property annually, and includes a fee that escalates yearly.

The first few months of the program brought to light an overwhelming number of vacant commercial structures within the City of Hamilton. Additionally, Covid-19 has added additional challenges to HFD administering the program in-house. To be able to promptly and efficiently address the issues related to the maintenance of these vacant structures, the Hamilton Fire Department is proposing a contract with ProChamps to assist in the administration of the Vacant Commercial & Industrial Property Registration Program. ProChamps will handle the identification, notification, registration, and collection process of the program. The electronic registration process that they are able to provide is cost-free and revenue neutral for Hamilton, and will be of great assistance in our efforts to eliminate blight and improve our neighborhoods within in the City.

It is the recommendation of this office that Council receives this report and concurs in the recommendation to proceed with a contract with ProChamps that will be presented to Council at a later date for approval.

Sincerely,

Joshua A. Smith  
City Manager

Caucus Report Prepared By:

Mark Mercer, OFE  
Fire Chief



**Choose Strategic Goal(s)**

- I** *Generate 125mm in new private investment*
- J** *Increase gross wages paid by Hamilton Employers by \$100mm*
- P** *Exceed total county growth rate median home sale prices*
- R** *Generate \$40mm in investment for recreational amenities*
- E** *Engage 50,000 participants annually in special events, arts and recreation activities*
- O** *General Operations/ Government Business*



## City Council Meeting Caucus Report

---

**TO:** The Honorable Mayor and Members of the City Council

**RE:** Recommendation relative to the disposition of property located in the Urban Renewal Area through the Side Lot Program

<input type="checkbox"/> 1 <sup>st</sup> Reading Date: N/A
<input type="checkbox"/> 2 <sup>nd</sup> Reading Date:
<input type="checkbox"/> Resolution Date:
<input type="checkbox"/> Public Hearing Date:

Dear Mayor and Members of Council:

As you are aware, City staff has been processing a large number of Side Lot Program applications in recent months for the transfer of vacant residential parcels to qualifying adjacent homeowner occupants. The transfer of these small residential parcels eliminates the ongoing expense to the City of maintaining the lots.

To date, the approval process has involved review of the application by City staff, a Caucus Report sent to City Council, a Staff Report and two (2) readings of an ordinance before City Council, and finally the necessary thirty (30) day waiting period until the legislation goes into effect. From start to finish, this process takes several months before the City is able to close on a property and deliver an executed Quit-Claim Deed and Transfer Agreement to the applicant. In the meantime, the City has continued to pay for ongoing maintenance, and the applicant often is frustrated they are unable to put up a fence or make desired improvements to the property.

In an effort to make the approval and transfer of vacant residential lots, located in the Urban Renewal Area, through the Side Lot Program more efficient, City staff recommends making the following changes to the process.

City staff will continue to review Side Lot Program applications and approve or deny in accordance with Hamilton Codified Ordinance 175.10 – Disposition of Property in an Urban Renewal Area and the City's Land Reutilization Policies and Procedures (R2012-10-49). When staff approves a Side Lot transfer, a Staff Report and Resolution authorizing the transfer will be prepared for City Council's consideration. Additionally, Staff recommends batching Side Lot Program transfers together in a single Staff Report and Resolution for each Council meeting, rather than sending separate Staff Reports and Resolutions for each individual Side Lot Program transfer. Separate Quit-Claim Deeds and Transfer Agreements for each parcel would then be prepared and Closings scheduled immediately following Council's approval.



It is the recommendation of this office that Council receives this report and concurs in the recommendation.

Sincerely,

Caucus Report Prepared By:

Joshua A. Smith  
City Manager

Lauren Nelson  
Business Development Specialist

**Choose Strategic Goal(s)**

- I** *Generate 125mm in new private investment*
- J** *Increase gross wages paid by Hamilton Employers by \$100mm*
- P** *Exceed total county growth rate median home sale prices*
- R** *Generate \$40mm in investment for recreational amenities*
- E** *Engage 50,000 participants annually in special events, arts and recreation activities*
- O** *General Operations/ Government Business*



## City Council Meeting Caucus Report

---

**TO:** The Honorable Mayor and Members of the City Council

**RE:** Recommendation relative to the leasing of property located in the Urban Renewal Area

<input type="checkbox"/> 1 <sup>st</sup> Reading Date: N/A
<input type="checkbox"/> 2 <sup>nd</sup> Reading Date:
<input type="checkbox"/> Resolution Date:
<input type="checkbox"/> Public Hearing Date:

Dear Mayor and Members of Council:

As you are aware, City staff has been processing a large number of Side Lot Program applications in recent months for the transfer of vacant residential parcels to qualifying adjacent homeowner occupants. The transfer of these small residential parcels eliminates the ongoing expense to the City of maintaining the lots.

Two scenarios have come up during this process, which require additional consideration by City Council. First, there are certain areas of town where City Administration has indicated the desire to maintain ownership of vacant parcels for strategic purposes. There are eligible adjacent homeowner occupants next to some of these vacant parcels who are interested in utilizing the city-owned lot as an extension of their yard. Second, it has become apparent through the review of many Side Lot Program applications that it is not uncommon for the applicant who lives next to the vacant lot to have an executed Land Contract for the purchase of their home.

In both scenarios, City staff proposes the execution of a lease with the eligible applicant for the use of the vacant residential lot. The lease document would allow the eligible applicant to utilize the city-owned parcel as green space and, if desired, construct a fence. The lease would cost (\$1.00) per year for the City applicant. Staff proposes that the lease would prohibit the eligible applicant from combining the leased parcel with their own parcel, or building any permanent structure (driveway, shed/garage, etc.) on it. The lease would also renew automatically each year and would provide a 60-day notice period by which either party could cancel the lease. A claw back provision would also be included whereby the City could cancel the lease if the city-owned parcel became a nuisance issue for any reason.

In the scenario where the City is maintaining ownership of a vacant residential parcel for a strategic purpose, an official transfer of the leased lot could take place at such time in the future when the City no longer has a need for the property. For those eligible applicants under a Land Contract, an official transfer of the leased lot could take place at such time in the future when they have outright ownership of their house.



City staff recommends the following process for the approval and leasing of vacant residential lots.

City staff will continue to review Side Lot Program applications and approve or deny in accordance with Hamilton Codified Ordinance 175.10 – Disposition of Property in an Urban Renewal Area and the City’s Land Reutilization Policies and Procedures (R2012-10-49). When staff approves an application that falls into one of the two scenarios described above, a Staff Report and Resolution authorizing a lease will be prepared for City Council’s consideration. Additionally, staff recommends batching the leases together in a single Staff Report and Resolution for each Council meeting, rather than sending separate Staff Reports and Resolutions for each individual lease. Separate Lease Agreements for each parcel would then be prepared and executed immediately following Council’s approval.

It is the recommendation of this office that Council receives this report and concurs in the recommendation.

Sincerely,

Caucus Report Prepared By:

Joshua A. Smith  
City Manager

Lauren Nelson  
Business Development Specialist

**Choose Strategic Goal(s)**

- I** Generate 125mm in new private investment
- J** Increase gross wages paid by Hamilton Employers by \$100mm
- P** Exceed total county growth rate median home sale prices
- R** Generate \$40mm in investment for recreational amenities
- E** Engage 50,000 participants annually in special events, arts and recreation activities
- O** General Operations/ Government Business



## City Council Meeting Staff Report

**Report To:** The Honorable Mayor Patrick Moeller & Members of the City Council

**Report From:** Lauren Nelson, Business Development Specialist

**Agenda Item:** An ordinance approving the conveyance of certain real property acquired through the Land Bank to an adjoining property owner as a sidelot. (115 Franklin Street).

<p><b>Approvals/Reviews</b> <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i></p>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	<p><b>Related Strategic Goal(s)</b></p> <input type="checkbox"/> <b>I</b> Realize new investments <input type="checkbox"/> <b>J</b> Increase gross wages <input checked="" type="checkbox"/> <b>P</b> Increase property values <input type="checkbox"/> <b>R</b> Generate recreational investments <input type="checkbox"/> <b>E</b> Engage citizens in activities <input type="checkbox"/> <b>O</b> General operations
<p><b>Ordinance or Resolution</b> <i>Ordinance</i></p>	<input checked="" type="checkbox"/> 1 <sup>st</sup> Reading Date: 7-22-2020 <input checked="" type="checkbox"/> 2 <sup>nd</sup> Reading Date: 8-12-2020 <input type="checkbox"/> Resolution Date: <input type="checkbox"/> Public Hearing Date:	
<p><b>Prior Action/Review</b> <i>Please note if this item was discussed on a prior Council or other agenda</i></p>	<p><b>City Council (or other):</b> Caucus Report 6-24-20 City Council Meeting</p>	
<p><b>Contract</b></p>	<input type="checkbox"/> Contract Required	<input type="checkbox"/> Additional Document(s) Attached
<p><b>Fiscal Impact</b></p>	<p>Budgeted: \$</p>	<p><i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i></p>
	<p>Expenditure: \$</p>	
	<p>Source Funds:</p>	

**Policy Issue**

Does City Council wish to adopt legislation to convey the vacant lot at 115 Franklin Street to Jonathan A. Roberts who owns property contiguous to this lot?

**Policy Alternative(s)**

Council may choose not to adopt such legislation to convey the vacant lot at 115 Franklin Street to Jonathan A. Roberts keep the property and maintain the lot.

**Staff Recommendation**

Staff recommends that Council receive this report and adopt the legislation to convey the vacant lot at 115 Franklin Street to Jonathan A. Roberts because it would help lessen density in the urban core, encourage home ownership, and increase property values.



**Statutory/Policy Authority**

- Section 3.09, Legislative Procedure, of the Charter of the City of Hamilton.
- Section 175.10, Disposition of Property, Hamilton Codified Ordinance and Land Bank Policies and Procedures
- Land Reutilization Policies and Procedures, R2012-10-49

**Fiscal Impact Summary**

The City will reduce future financial responsibilities for maintenance of this property.

**Background Information**

The property at 115 Franklin Street was acquired by the City of Hamilton from the Butler County Land Reutilization Corporation (Land Bank) in November 2012. The property is eligible for the side lot program and is in an urban renewal area. Jonathan A. Roberts owns the property at 203 South B St. and seeks to expand the yard by purchasing said property for One Hundred and 00/100 Dollars (\$100.00) through the City's Side Lot Program.

Address	Parcel Identification
115 Franklin Street, Hamilton, OH	P6412111000032

**Attached Information**

N/A

**Copies Provided to:**

N/A



**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE APPROVING THE CONVEYANCE OF CERTAIN REAL PROPERTY ACQUIRED THROUGH THE LAND BANK TO AN ADJOINING PROPERTY OWNER AS A SIDELOT.** (115 Franklin Street).

WHEREAS, the City of Hamilton, Ohio has received a request from Jonathan A. Roberts to acquire a property acquired through the Butler County Land Reutilization Corporation (Land Bank) and located in the City's Urban Renewal Area for the purposes as set forth in detail below; and

WHEREAS, City Administration has determined that this property, acquired through the Land Bank, is not needed for a public purpose, is located in an Urban Renewal Area and is contiguous to the residential property owned by Jonathan A. Roberts; and

WHEREAS, no other eligible contiguous property owner applied to acquire this Property pursuant to the Land Reutilization Policies and Procedures set forth in Resolution No. R2012-10-49, adopted October 24, 2012 ("Land Reutilization Policies"); and

WHEREAS, pursuant to Section 175.10 of the City of Hamilton Codified Ordinances, City owned property in an urban renewal area which is not to be retained by the City in accordance with the Urban Renewal Plan may be disposed of with Council's approval, by sale under certain circumstances as are determined to be necessary and appropriate to carrying out the purpose of the Urban Renewal Plan; and

WHEREAS, City Administration has determined that acquisition costs should be waived and that the property should be sold to the applicant for One Hundred and 00/100 Dollars (\$100.00); and

WHEREAS, pursuant to the Land Reutilization Policies, it is also necessary to authorize the City Manager to execute a Land Bank Property Transfer Agreement with each purchaser to ensure that the purchaser maintain the property according to Land Bank standards and requirements; and

WHEREAS, Council determines that the conveyance of this property will meet the City goals of lessening density, encouraging home ownership, eliminating blight within the City, and increasing property values; and

WHEREAS, Council desires to authorize the conveyance of the ownership of this City-owned property to Jonathan A. Roberts and to authorize and direct the City Manager to take all actions necessary to effect such conveyance;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hamilton, Ohio:

SECTION I: That this Council hereby declares its intent to sell the following City-owned property acquired through the Land Bank, which is more fully described below, and as seen in Exhibit No. 1, to the applicant for One Hundred and 00/100 Dollars (\$100.00), subject to the terms of a Land Bank Transfer Agreement, and waives any additional acquisition costs pursuant to the Land Reutilization Policies

<b>Purchaser</b>	<b>Address</b>	<b>Parcel Identification</b>
Jonathan A. Roberts	115 Franklin Street	P6412111000032

SECTION II: That this Council hereby finds that the conveyance of said property is in the public interest, comports with the City's Urban Renewal Plan and is made pursuant to the Land Reutilization Policies.

SECTION III: That the City Manager is authorized and directed to execute any and all documents necessary to effect this conveyance, including but not limited to a Land Bank Property Transfer Agreement, with the purchaser to ensure that the purchaser maintains the property according to Land Bank standards and requirements, subject to the conditions set forth herein.

SECTION IV: That this conveyance shall be subject to any easements currently of record and any easement determined necessary by the City for any utility purposes.

Ordinance No. \_\_\_\_\_ (cont'd)

SECTION V: This ordinance shall take effect and be in full force from and after the earliest period allowed by law.

PASSED: \_\_\_\_\_

\_\_\_\_\_  
Mayor

Effective Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_

City Clerk

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk of the City of Hamilton, Ohio, State of Ohio, hereby certify that the foregoing Ordinance No. \_\_\_\_\_ was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in the lobby of City Hall for a period of ten days. POSTED: \_\_\_\_\_.

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**

**EXHIBIT NO. 1**



## City Council Meeting Staff Report

**Report To:** The Honorable Mayor Patrick Moeller & Members of the City Council

**Report From:** Lauren Nelson, Business Development Specialist

**Agenda Item:** An ordinance approving the conveyance of certain real property acquired through the Land Bank to an adjoining property owner as a sidelot. (830 Ross Avenue).

<p><b>Approvals/Reviews</b> <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i></p>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	<p><b>Related Strategic Goal(s)</b></p> <input type="checkbox"/> <b>I</b> Realize new investments <input type="checkbox"/> <b>J</b> Increase gross wages <input checked="" type="checkbox"/> <b>P</b> Increase property values <input type="checkbox"/> <b>R</b> Generate recreational investments <input type="checkbox"/> <b>E</b> Engage citizens in activities <input type="checkbox"/> <b>O</b> General operations
<p><b>Ordinance or Resolution</b> <i>Ordinance</i></p>	<input checked="" type="checkbox"/> 1 <sup>st</sup> Reading Date: 7-22-2020 <input checked="" type="checkbox"/> 2 <sup>nd</sup> Reading Date: 8-12-2020 <input type="checkbox"/> Resolution Date: <input type="checkbox"/> Public Hearing Date:	
<p><b>Prior Action/Review</b> <i>Please note if this item was discussed on a prior Council or other agenda</i></p>	<p><b>City Council (or other):</b> Caucus Report 6-24-20 City Council Meeting</p>	
<p><b>Contract</b></p>	<input type="checkbox"/> Contract Required	<input type="checkbox"/> Additional Document(s) Attached
<p><b>Fiscal Impact</b></p>	<p>Budgeted: \$</p>	<p><i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i></p>
	<p>Expenditure: \$</p>	
	<p>Source Funds:</p>	

**Policy Issue**

Does City Council wish to adopt legislation to convey the vacant lot at 830 Ross Avenue to Bradley C. Shane who owns property contiguous to this lot?

**Policy Alternative(s)**

Council may choose not to adopt such legislation to convey the vacant lot at 830 Ross Avenue to Bradley C. Shane keep the property and maintain the lot.

**Staff Recommendation**

Staff recommends that Council receive this report and adopt the legislation to convey the vacant lot at 830 Ross Avenue to Bradley C. Shane because it would help lessen density in the urban core, encourage home ownership, and increase property values.



**Statutory/Policy Authority**

- Section 3.09, Legislative Procedure, of the Charter of the City of Hamilton.
- Section 175.10, Disposition of Property, Hamilton Codified Ordinance and Land Bank Policies and Procedures
- Land Reutilization Policies and Procedures, R2012-10-49

**Fiscal Impact Summary**

The City will reduce future financial responsibilities for maintenance of this property.

**Background Information**

The property at 830 Ross Avenue was acquired by the City of Hamilton from the Butler County Land Reutilization Corporation (Land Bank) in November 2015. The property is eligible for the side lot program and is in an urban renewal area. Bradley C. Shane owns the property at 828 Ross Avenue and seeks to expand the yard by purchasing said property for One Hundred and 00/100 Dollars (\$100.00) through the City’s Side Lot Program.

Address	Parcel Identification
830 Ross Avenue, Hamilton, OH	P6412003000034

**Attached Information**

N/A

**Copies Provided to:**

N/A



**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE APPROVING THE CONVEYANCE OF CERTAIN REAL PROPERTY ACQUIRED THROUGH THE LAND BANK TO AN ADJOINING PROPERTY OWNER AS A SIDELOT.** (830 Ross Avenue).

WHEREAS, the City of Hamilton, Ohio has received a request from Bradley C. Shane to acquire a property acquired through the Butler County Land Reutilization Corporation (Land Bank) and located in the City's Urban Renewal Area for the purposes as set forth in detail below; and

WHEREAS, City Administration has determined that this property, acquired through the Land Bank, is not needed for a public purpose, is located in an Urban Renewal Area and is contiguous to the residential property owned by Bradley C. Shane; and

WHEREAS, no other eligible contiguous property owner applied to acquire this Property pursuant to the Land Reutilization Policies and Procedures set forth in Resolution No. R2012-10-49, adopted October 24, 2012 ("Land Reutilization Policies"); and

WHEREAS, pursuant to Section 175.10 of the City of Hamilton Codified Ordinances, City owned property in an urban renewal area which is not to be retained by the City in accordance with the Urban Renewal Plan may be disposed of with Council's approval, by sale under certain circumstances as are determined to be necessary and appropriate to carrying out the purpose of the Urban Renewal Plan; and

WHEREAS, City Administration has determined that acquisition costs should be waived and that the property should be sold to the applicant for One Hundred and 00/100 Dollars (\$100.00); and

WHEREAS, pursuant to the Land Reutilization Policies, it is also necessary to authorize the City Manager to execute a Land Bank Property Transfer Agreement with each purchaser to ensure that the purchaser maintain the property according to Land Bank standards and requirements; and

WHEREAS, Council determines that the conveyance of this property will meet the City goals of lessening density, encouraging home ownership, eliminating blight within the City, and increasing property values; and

WHEREAS, Council desires to authorize the conveyance of the ownership of this City-owned property to Bradley C. Shane and to authorize and direct the City Manager to take all actions necessary to effect such conveyance;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hamilton, Ohio:

SECTION I: That this Council hereby declares its intent to sell the following City-owned property acquired through the Land Bank, which is more fully described below, and as seen in Exhibit No.1, to the applicant for One Hundred and 00/100 Dollars (\$100.00), subject to the terms of a Land Bank Transfer Agreement, and waives any additional acquisition costs pursuant to the Land Reutilization Policies

<b>Purchaser</b>	<b>Address</b>	<b>Parcel Identification</b>
Bradley C. Shane	830 Ross Avenue	P6412003000034

SECTION II: That this Council hereby finds that the conveyance of said property is in the public interest, comports with the City's Urban Renewal Plan and is made pursuant to the Land Reutilization Policies.

SECTION III: That the City Manager is authorized and directed to execute any and all documents necessary to effect this conveyance, including but not limited to a Land Bank Property Transfer Agreement, with the purchaser to ensure that the purchaser maintains the property according to Land Bank standards and requirements, subject to the conditions set forth herein.

SECTION IV: That this conveyance shall be subject to any easements currently of record and any easement determined necessary by the City for any utility purposes.

Ordinance No. \_\_\_\_\_ (cont'd)

SECTION V: This ordinance shall take effect and be in full force from and after the earliest period allowed by law.

PASSED: \_\_\_\_\_

\_\_\_\_\_  
Mayor

Effective Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_

City Clerk

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk of the City of Hamilton, Ohio, State of Ohio, hereby certify that the foregoing Ordinance No. \_\_\_\_\_ was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in the lobby of City Hall for a period of ten days. POSTED: \_\_\_\_\_.

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**



## City Council Meeting Staff Report

**Report To:** The Honorable Mayor Patrick Moeller & Members of the City Council

**Report From:** Lauren Nelson, Business Development Specialist

**Agenda Item:** An ordinance approving the conveyance of certain real property acquired through the Land Bank to an adjoining property owner as a sidelot. (847 Fairview Avenue).

<p><b>Approvals/Reviews</b> <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i></p>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	<p><b>Related Strategic Goal(s)</b></p> <input type="checkbox"/> <b>I</b> Realize new investments <input type="checkbox"/> <b>J</b> Increase gross wages <input checked="" type="checkbox"/> <b>P</b> Increase property values <input type="checkbox"/> <b>R</b> Generate recreational investments <input type="checkbox"/> <b>E</b> Engage citizens in activities <input type="checkbox"/> <b>O</b> General operations
<p><b>Ordinance or Resolution</b> <i>Ordinance</i></p>	<input checked="" type="checkbox"/> 1 <sup>st</sup> Reading Date: 7-22-2020 <input checked="" type="checkbox"/> 2 <sup>nd</sup> Reading Date: 8-12-2020 <input type="checkbox"/> Resolution Date: <input type="checkbox"/> Public Hearing Date:	
<p><b>Prior Action/Review</b> <i>Please note if this item was discussed on a prior Council or other agenda</i></p>	<p><b>City Council (or other):</b> Caucus Report 6-24-20 City Council Meeting</p>	
<p><b>Contract</b></p>	<input type="checkbox"/> Contract Required	<input type="checkbox"/> Additional Document(s) Attached
<p><b>Fiscal Impact</b></p>	Budgeted: \$ Expenditure: \$ Source Funds:	<p><i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i></p>

### Policy Issue

Does City Council wish to adopt legislation to convey the vacant lot at 847 Fairview Avenue to Charles D. Johnson, Jr. and Carlessa I. Johnson who own property contiguous to this lot?

### Policy Alternative(s)

Council may choose not to adopt such legislation to convey the vacant lot at 847 Fairview Avenue to Charles D. Johnson, Jr. and Carlessa I. Johnson keep the property and maintain the lot.

### Staff Recommendation

Staff recommends that Council receive this report and adopt the legislation to convey the vacant lot at 847 Fairview Avenue to Charles D. Johnson, Jr. and Carlessa I. Johnson because it would help lessen density in the urban core, encourage home ownership, and increase property values.



**Statutory/Policy Authority**

- Section 3.09, Legislative Procedure, of the Charter of the City of Hamilton.
- Section 175.10, Disposition of Property, Hamilton Codified Ordinance and Land Bank Policies and Procedures
- Land Reutilization Policies and Procedures, R2012-10-49

**Fiscal Impact Summary**

The City will reduce future financial responsibilities for maintenance of this property.

**Background Information**

The property at 847 Fairview Avenue was acquired by the City of Hamilton from the Butler County Land Reutilization Corporation (Land Bank) in April 2016. The property is eligible for the side lot program and is in an urban renewal area. Charles D. Johnson, Jr. and Carlessa I. Johnson own the property at 859 Fairview Avenue and seek to expand the yard by purchasing said property for One Hundred and 00/100 Dollars (\$100.00) through the City's Side Lot Program.

Address	Parcel Identification
847 Fairview Avenue, Hamilton, OH	P6461046000064

**Attached Information**

N/A

**Copies Provided to:**

N/A



**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE APPROVING THE CONVEYANCE OF CERTAIN REAL PROPERTY ACQUIRED THROUGH THE LAND BANK TO AN ADJOINING PROPERTY OWNER AS A SIDELOT.** (847 Fairview Avenue).

WHEREAS, the City of Hamilton, Ohio has received a request from Charles D. Johnson, Jr. and Carlessa I. Johnson to acquire a property acquired through the Butler County Land Reutilization Corporation (Land Bank) and located in the City's Urban Renewal Area for the purposes as set forth in detail below; and

WHEREAS, City Administration has determined that this property, acquired through the Land Bank, is not needed for a public purpose, is located in an Urban Renewal Area and is contiguous to the residential property owned by Charles D. Johnson, Jr. and Carlessa I. Johnson; and

WHEREAS, no other eligible contiguous property owner applied to acquire this Property pursuant to the Land Reutilization Policies and Procedures set forth in Resolution No. R2012-10-49, adopted October 24, 2012 ("Land Reutilization Policies"); and

WHEREAS, pursuant to Section 175.10 of the City of Hamilton Codified Ordinances, City owned property in an urban renewal area which is not to be retained by the City in accordance with the Urban Renewal Plan may be disposed of with Council's approval, by sale under certain circumstances as are determined to be necessary and appropriate to carrying out the purpose of the Urban Renewal Plan; and

WHEREAS, City Administration has determined that acquisition costs should be waived and that the property should be sold to the applicant for One Hundred and 00/100 Dollars (\$100.00); and

WHEREAS, pursuant to the Land Reutilization Policies, it is also necessary to authorize the City Manager to execute a Land Bank Property Transfer Agreement with each purchaser to ensure that the purchaser maintain the property according to Land Bank standards and requirements; and

WHEREAS, Council determines that the conveyance of this property will meet the City goals of lessening density, encouraging home ownership, eliminating blight within the City, and increasing property values; and

WHEREAS, Council desires to authorize the conveyance of the ownership of this City-owned property to Charles D. Johnson, Jr. and Carlessa I. Johnson and to authorize and direct the City Manager to take all actions necessary to effect such conveyance;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hamilton, Ohio:

SECTION I: That this Council hereby declares its intent to sell the following City-owned property acquired through the Land Bank, which is more fully described below, and as seen in Exhibit No. 1, to the applicant for One Hundred and 00/100 Dollars (\$100.00), subject to the terms of a Land Bank Transfer Agreement, and waives any additional acquisition costs pursuant to the Land Reutilization Policies

<b>Purchaser</b>	<b>Address</b>	<b>Parcel Identification</b>
Charles D. Johnson, Jr. & Carlessa I. Johnson	847 Fairview Avenue	P6461046000064

SECTION II: That this Council hereby finds that the conveyance of said property is in the public interest, comports with the City's Urban Renewal Plan and is made pursuant to the Land Reutilization Policies.

SECTION III: That the City Manager is authorized and directed to execute any and all documents necessary to effect this conveyance, including but not limited to a Land Bank Property Transfer Agreement, with the purchaser to ensure that the purchaser maintains the property according to Land Bank standards and requirements, subject to the conditions set forth herein.

SECTION IV: That this conveyance shall be subject to any easements currently of record and any easement determined necessary by the City for any utility purposes.

Ordinance No. \_\_\_\_\_ (cont'd)

SECTION V: This ordinance shall take effect and be in full force from and after the earliest period allowed by law.

PASSED: \_\_\_\_\_

\_\_\_\_\_  
Mayor

Effective Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_

City Clerk

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk of the City of Hamilton, Ohio, State of Ohio, hereby certify that the foregoing Ordinance No. \_\_\_\_\_ was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in the lobby of City Hall for a period of ten days. POSTED: \_\_\_\_\_.

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**

**EXHIBIT NO. 1**



## City Council Meeting Staff Report

**Report To:** The Honorable Mayor Patrick Moeller & Members of the City Council

**Report From:** Lauren Nelson, Business Development Specialist

**Agenda Item:** An ordinance approving the conveyance of certain real property located within the City of Hamilton, Ohio's Urban Renewal Area, to an adjoining property owner as a sidelot. (1749 Parrish Avenue).

<b>Approvals/Reviews</b> <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	<b>Related Strategic Goal(s)</b> <input type="checkbox"/> <b>I</b> Realize new investments <input type="checkbox"/> <b>J</b> Increase gross wages <input checked="" type="checkbox"/> <b>P</b> Increase property values <input type="checkbox"/> <b>R</b> Generate recreational investments <input type="checkbox"/> <b>E</b> Engage citizens in activities <input type="checkbox"/> <b>O</b> General operations
<b>Ordinance or Resolution</b> <i>Ordinance</i>	<input checked="" type="checkbox"/> 1 <sup>st</sup> Reading Date: 7-22-20 <input checked="" type="checkbox"/> 2 <sup>nd</sup> Reading Date: 8-12-20 <input type="checkbox"/> Resolution Date: <input type="checkbox"/> Public Hearing Date:	
<b>Prior Action/Review</b> <i>Please note if this item was discussed on a prior Council or other agenda</i>	<b>City Council (or other):</b> Caucus Report 6-24-20	
<b>Contract</b>	<input type="checkbox"/> Contract Required	<input type="checkbox"/> Additional Document(s) Attached
<b>Fiscal Impact</b>	Budgeted: \$ Expenditure: \$ Source Funds:	<i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i>

### Policy Issue

Does City Council wish to adopt legislation to convey the vacant lot at 1749 Parrish Avenue to Robert Tuttle III who owns property contiguous to this lot?

### Policy Alternative(s)

Council may choose not to adopt such legislation to convey the vacant lot at 1749 Parrish Avenue to Robert Tuttle III keep the property and maintain the lot.

### Staff Recommendation

Staff recommends that Council receive this report and adopt the legislation to convey the vacant lot at 1749 Parrish Avenue to Robert Tuttle III because it would help lessen density in the urban core, encourage home ownership, and increase property values.



**Statutory/Policy Authority**

- Section 3.09, Legislative Procedure, of the Charter of the City of Hamilton
- Section 175.10, Disposition of Property, Hamilton Codified Ordinance
- Land Reutilization Policies and Procedures, R2012-10-49

**Fiscal Impact Summary**

The City will reduce future financial responsibilities for maintenance of this property.

**Background Information**

The property at 1749 Parrish Avenue was acquired by the City of Hamilton from Edward and Laura Nunnery in 1940. The property is eligible for the side lot program and is in an urban renewal area. Robert Tuttle III owns the property at 1747 Parrish Avenue and seeks to expand the yard by purchasing said property for One Hundred and 00/100 Dollars (\$100.00) through the City's Side Lot Program.

Address	Parcel Identification
1749 Parrish Avenue, Hamilton, OH	P6451045000009

**Attached Information**

N/A

**Copies Provided to:**

N/A



**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE APPROVING THE CONVEYANCE OF CERTAIN REAL PROPERTY LOCATED WITHIN THE CITY OF HAMILTON, OHIO'S URBAN RENEWAL AREA, TO AN ADJOINING PROPERTY OWNER AS A SIDELOT. (1749 Parrish Avenue).**

WHEREAS, the City of Hamilton, Ohio has received a request from Robert Tuttle III to acquire a property acquired from Edward and Laura Nunnery in 1940 and located in the City's Urban Renewal Area for the purposes as set forth in detail below; and

WHEREAS, City Administration has determined that this property is not needed for a public purpose, is located in an Urban Renewal Area and is contiguous to the residential property owned by Robert Tuttle III; and

WHEREAS, no other eligible contiguous property owner applied to acquire this Property pursuant to the Land Reutilization Policies and Procedures set forth in Resolution No. R2012-10-49, adopted October 24, 2012 ("Land Reutilization Policies"); and

WHEREAS, pursuant to Section 175.10 of the City of Hamilton Codified Ordinances, City owned property in an urban renewal area which is not to be retained by the City in accordance with the Urban Renewal Plan may be disposed of with Council's approval, by sale under certain circumstances as are determined to be necessary and appropriate to carrying out the purpose of the Urban Renewal Plan; and

WHEREAS, City Administration has determined that acquisition costs should be waived and that the property should be sold to the applicant for One Hundred and 00/100 Dollars (\$100.00); and

WHEREAS, pursuant to the Land Reutilization Policies, it is also necessary to authorize the City Manager to execute a Transfer Agreement with each purchaser to ensure that the purchaser maintain the property according to certain standards and requirements; and

WHEREAS, Council determines that the conveyance of this property will meet the City goals of lessening density, encouraging home ownership, eliminating blight within the City, and increasing property values; and

WHEREAS, Council desires to authorize the conveyance of the ownership of this City-owned property to Robert Tuttle III and to authorize and direct the City Manager to take all actions necessary to effect such conveyance;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hamilton, Ohio:

SECTION I: That this Council hereby declares its intent to sell the following City-owned property acquired from Butler County through forfeited land sale, which is more fully described below, and as seen in Exhibit No. 1, to the applicant for One Hundred and 00/100 Dollars (\$100.00), subject to the terms of a Transfer Agreement, and waives any additional acquisition costs pursuant to the Land Reutilization Policies.

<b>Purchaser</b>	<b>Address</b>	<b>Parcel Identification</b>
Robert Tuttle III	1749 Parrish Avenue	P645104500009

SECTION II: That this Council hereby finds that the conveyance of said property is in the public interest, comports with the City's Urban Renewal Plan and is made pursuant to the Land Reutilization Policies.

**Ordinance No.** \_\_\_\_\_ **(cont'd)**

SECTION III: That the City Manager is authorized and directed to execute any and all documents necessary to effect this conveyance, including but not limited to a Transfer Agreement, with the purchaser to ensure that the purchaser maintains the property according to certain standards and requirements, subject to the conditions set forth herein.

SECTION IV: That this conveyance shall be subject to any easements currently of record and any easement determined necessary by the City for any utility purposes.

SECTION V: This ordinance shall take effect and be in full force from and after the earliest period allowed by law.

PASSED: \_\_\_\_\_

\_\_\_\_\_

Mayor

Effective Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_

City Clerk

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk of the City of Hamilton, Ohio, State of Ohio, hereby certify that the foregoing Ordinance No. \_\_\_\_\_ was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in the lobby of City Hall for a period of ten days. POSTED: \_\_\_\_\_.

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**

**EXHIBIT NO. 1**



Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NRS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community, Esri Community Maps, 2014

**Areas**  
1749 Parrish Ave

**Exhibit #1**



## City Council Meeting Staff Report

**Report To:** The Honorable Mayor Patrick Moeller & Members of the City Council

**Report From:** J. Scott Scrimizzi, Executive Director of Public Safety

**Agenda Item:** An ordinance amending and supplementing Schedule “A” of the City’s Classification and Compensation Plan, as set forth in Emergency Ordinance No. EOR2020-1-6, adopted January 15, 2020, as amended from time to time, to amend the pay range for the classification of Police Chief.

<b>Approvals/Reviews</b> <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	<b>Related Strategic Goal(s)</b> <input type="checkbox"/> <b>I</b> Realize new investments <input type="checkbox"/> <b>J</b> Increase gross wages <input type="checkbox"/> <b>P</b> Increase property values <input type="checkbox"/> <b>R</b> Generate recreational investments <input type="checkbox"/> <b>E</b> Engage citizens in activities <input checked="" type="checkbox"/> <b>O</b> General operations
<b>Ordinance or Resolution</b> <i>Ordinance</i>	<input checked="" type="checkbox"/> 1 <sup>st</sup> Reading Date: 7-22-20 <input checked="" type="checkbox"/> 2 <sup>nd</sup> Reading Date: 8-12-20 <input type="checkbox"/> Resolution Date: <input type="checkbox"/> Public Hearing Date:	
<b>Prior Action/Review</b> <i>Please note if this item was discussed on a prior Council or other agenda</i>	<b>City Council (or other):</b>	
<b>Contract</b>	<input type="checkbox"/> Contract Required	<input type="checkbox"/> Additional Document(s) Attached
<b>Fiscal Impact</b>	Budgeted: \$0	<i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i>
	Expenditure: \$3,161.00	
	Source Funds:	

### Policy Issue

Does City Council wish to adopt legislation to amend Schedule “A” of the City’s Classification and Compensation Plan to amend the pay range for Police Chief?

### Policy Alternative(s)

Council may choose not to adopt such legislation to amend Schedule “A” of the City’s Classification and Compensation plan to adjust the pay range for the position of Police Chief. This would result in the position remaining in the current range and the current incumbent would have no opportunity for increased salary.



## **Staff Recommendation**

Staff recommends that Council receive this report and adopt the legislation to amend Schedule “A” of the City’s Classification and Compensation Plan to adjust the pay range for the classification of Police Chief.

## **Statutory/Policy Authority**

- Section 3.09, Legislative Procedure, of the Charter of the City of Hamilton.

## **Fiscal Impact Summary**

There is approximately a \$10,275.00 difference in top wage rate between pay range 65 and pay range 68 in Schedule “A” as it exists currently. It is anticipated that the incumbent would be placed in a step in the new pay range that would result in an increase of approximately \$3,161.00 in wages annually, along with associated fringe benefit costs (e.g., OP&F, workers compensation, etc.)

## **Background Information**

The classification of Police Chief is a salaried position the wages for which are determined by Schedule “A” of the City’s Classification and Compensation Plan. All other wages of sworn members within the Police Division are determined by collective bargaining agreements (CBA) between the City and Fraternal Order of Police (FOP). The wage differential between each successive rank within the Police Division below the rank of Police Chief is set by CBA at 15%. Due to FOP wages out pacing Schedule “A” wage increases since 2012, when the pay range for Police Chief was last amended, the effective wage difference between Police Chief and the next lower rank currently stands at approximately 4%. By amending the pay range for Police Chief, the new effective deferential between Police Chief and the next lower rank will be in the 6-10% range.

## **Attached Information**

N/A

## **Copies Provided to:**

N/A



ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING AND SUPPLEMENTING SCHEDULE "A" OF THE CITY'S CLASSIFICATION AND COMPENSATION PLAN, AS SET FORTH IN EMERGENCY ORDINANCE NO. EOR2020-1-6, ADOPTED JANUARY 15, 2020 TO AMEND THE PAY RANGE FOR THE CLASSIFICATION OF POLICE CHIEF.**

WHEREAS, the pay range for classification of Police Chief was last amended in March of 2012; and

WHEREAS, the pay range adjustment is necessary to address wage compression within the administrative ranks of the Division of Police occurring since 2012; and

WHEREAS, the Administration of the City of Hamilton, Ohio recommends that the pay range for classification of Police Chief be amended; and

WHEREAS, to accomplish the aforesaid it is necessary to amend existing Schedule "A" of the City's Classification and Compensation Plan as set forth in Emergency Ordinance No. EOR2020-1-6, adopted January 15, 2020; and

WHEREAS, this Council desires that said amendment be made;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hamilton, Ohio:

SECTION I: That Schedule "A" of the City's Classification and Compensation Plan, as set forth in Emergency Ordinance No. EOR2020-1-6, adopted January 15, 2020, be and is hereby amended to be and read as set forth in detail below.

<u>Class Code</u>	<u>Title</u>	<u>Pay Range</u>	<u>Annual Salary Minimum – Maximum</u>
411	Police Chief	68	\$112,299 - \$143,853

SECTION II: This ordinance shall take effect and be in full force from and after the earliest period allowed by law after its passage.

PASSED: \_\_\_\_\_

Effective Date: \_\_\_\_\_

\_\_\_\_\_  
Mayor

ATTEST: \_\_\_\_\_  
City Clerk

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk of the City of Hamilton, Ohio, State of Ohio, hereby certify that the foregoing Ordinance No. \_\_\_\_\_ was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in the lobby of City Hall for a period of ten days. POSTED: \_\_\_\_\_.

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**

## City Council Meeting Staff Report

**Report To:** The Honorable Mayor Patrick Moeller & Members of the City Council

**Report From:** The Charter Review Commission  
Nicholas Garuckas, City Clerk

**Agenda Item:** An Emergency Ordinance to provide for the submission to the electors of the City of Hamilton, Ohio, at the General Election to be held on Tuesday, November 3, 2020, a proposed amendment to the City Charter the provisions of Article III, The Council, Section 3.01(A)(4), Powers of Council, and Article V, Administrative Service, Section 5.09, Number of Assistants and Subordinates; How Fixed, as set forth in full in this ordinance.

<p><b>Approvals/Reviews</b> <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i></p>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	<p><b>Related Strategic Goal(s)</b></p> <input type="checkbox"/> <b>I</b> Realize new investments <input type="checkbox"/> <b>J</b> Increase gross wages <input type="checkbox"/> <b>P</b> Increase property values <input type="checkbox"/> <b>R</b> Generate recreational investments <input type="checkbox"/> <b>E</b> Engage citizens in activities <input checked="" type="checkbox"/> <b>O</b> General operations
<p><b>Ordinance or Resolution</b> <i>Emergency Ordinance</i></p>	<input checked="" type="checkbox"/> 1 <sup>st</sup> Reading Date: 7-22-2020 <input checked="" type="checkbox"/> 2 <sup>nd</sup> Reading Date: 8-12-2020 <input type="checkbox"/> Resolution Date: <input checked="" type="checkbox"/> Public Hearing Date: 7-22-2020	
<p><b>Prior Action/Review</b> <i>Please note if this item was discussed on a prior Council or other agenda</i></p>	<p><b>City Council (or other):</b> Caucus Report 6-24-2020 City Council Meeting</p>	
<p><b>Contract</b></p>	<input type="checkbox"/> Contract Required	<input checked="" type="checkbox"/> Additional Document(s) Attached
<p><b>Fiscal Impact</b></p>	<p>Budgeted: Less than \$1,000          Expenditure: \$          Source Funds:</p>	<p><i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i></p>

**Policy Issue**

Does City Council wish to adopt legislation to submit the proposed amendment of Article III, The Council, Section 3.01(A)(4), Powers of Council, and Article V, Administrative Service, Section 5.09, Number of Assistants and Subordinates; How Fixed, to the Charter of the City of Hamilton, Ohio to the electors at the next general election?

**Policy Alternative(s)**

Council may choose not to adopt legislation to submit proposed amendment of Article III, The Council, Section 3.01(A)(4), Powers of Council, and Article V, Administrative Service, Section 5.09, Number of Assistants and Subordinates; How Fixed, to the Charter of City of Hamilton, Ohio to the electors at the next general election. If City Council decides not to propose the amendment to Section 3.01(A)(4) and Section 5.09, then the authority to set the number of employees in City Departments will remain with the Council and not the Manager unless expressed by the Council.



## **Charter Review Commission and Staff Recommendation**

Staff recommends that Council receive this report and adopt legislation to submit proposed amendment to Article III, The Council, Section 3.01, Powers of Council, and Article V, Administrative Service, Section 5.09, Number of Assistants and Subordinates; How Fixed, of the Charter of the City of Hamilton, Ohio to the electors at the next general election. Particularly, it is recommended by the Charter Review Commission and City Staff that the Charter be amended to move the authority to set the number of employees in City departments to the Manager and not the Council because it is the Manager's responsibility to handle the administrative duties of the City the Council does not need to involve itself with this endeavour.

## **Statutory/Policy Authority**

- Section 9, Article XVIII, of the Ohio Constitution.
- Section 3.09, Legislative Procedure, of the Charter of the City of Hamilton.
- Article III, The Council, Section 3.01, Powers of Council, and Article V, Administrative Service, Section 5.09, Number of Assistants and Subordinates; How Fixed.

## **Fiscal Impact Summary**

There is no substantial fiscal impact as these amendments are procedural to the Charter of the City of Hamilton, Ohio. The only difference is that if passed, the City Manager will be given the authority to set the number of employees in City departments and not City Council. It is required that the ordinance be posted in the local newspaper and filing fees may also be due to the Butler County Board of Elections so this issue can be placed on the November 2020 ballot, if passed. These costs are expected to be less than \$1,000.00.

## **Background Information**

The Charter Review Commission heard a proposed amendment from Commissioner Robert Wile to Article III, The Council, Section 3.01, Powers of Council, and Article V, Administrative Service, Section 5.09, Number of Assistants and Subordinates; How Fixed, as a result of discussing the hiring practices of the City. The Charter Review Commission discussed that this duty seemed more like an administrative duty of the City Manager rather than a power of Council. Since Council can establish departments by legislation, it should be up to the City Administration to tell the Council how many employees will be necessary to accurate staff a department. Council already approves the annual budget so they can appropriate funds as they see fit to department staffing already if there was an issue. The Charter Review Commission discussed the topic at their regular meetings on May 11, 2020 and May 26, 2020.

This amendment, if approved, will give the City Manager the authority to set the number of employees in City departments to the Manager and not the Council because it is the Manager's responsibility to handle the administrative duties of the City the Council does not need to involve itself with this endeavour.

## **Attached Information**

- Redline of proposed amended language to Article III, The Council, Section 3.01, Powers of Council, and Article V, Administrative Service, Section 5.09, Number of Assistants and Subordinates; How Fixed

## **Copies Provided to:**

The Charter Review Commission



## ARTICLE III

### THE COUNCIL

#### 3.01 Powers of Council

(A) All legislative power of the City shall be vested in the Council, except as otherwise provided by this Charter and the Constitution of the State of Ohio. Without limitation of the foregoing, the Council shall have and possess the following powers:

(1) The power to levy taxes and assessments and incur debts subject to the limitations imposed thereon by this Charter.

(2) The power to adopt and to provide for the enforcement of local police, sanitary and other similar regulations as are not in conflict with the general laws.

(3) The power to provide for the exercise of all powers of local self-government granted to the City by the Constitution of the State of Ohio in a manner not inconsistent with this Charter or the Constitution of the State of Ohio.

(4) The power, by ordinance or resolution, to establish or authorize the number of officers ~~and employees~~ in the various ~~offices, departments, divisions, bureaus,~~ boards and commissions of the City and to establish or authorize the establishment of the rate of their compensation, hours of work, and to provide such other fringe benefits and conditions of employment as deemed proper by the Council or as determined by the law governing public sector collective bargaining.

(5) The power to require bonds as in the opinion of the Council are necessary for the faithful discharge of the duties of the officers and employees of the City. The premium for the bonds shall be paid by the City.

(6) The power to create, combine, change and abolish other offices, departments, divisions, bureaus, boards and commissions. The power expressed in this sub-section shall be exercised by ordinance or resolution. The Council shall not abolish any office, board, commission or committee created by this Charter nor shall the Council abolish, merge or combine the departments of police and fire into one administrative unit.

(7) The power to establish, by ordinance or resolution, the rates or charges made of consumers of all municipal utilities and services.

(8) The power to acquire and to sell or otherwise convey interests in real property; and to lease, as lessor or lessee, or otherwise grant or receive interests in real property in the manner determined by Council.

(9) The power to provide for an independent audit of the accounts and records of the City, which may be in addition to audits by state offices and agencies as may be required under the general laws of Ohio.

(10) To exercise all other powers that are legislative powers granted to the Council by this Charter or by the Constitution and laws of the State of Ohio.

## ARTICLE V

### ADMINISTRATIVE SERVICE

#### 5.09 Number of Assistants and Subordinates; How Fixed

The number of assistants and other subordinates to be employed in or by each department or office shall be ~~fixed by the Council; unless the Council shall authorize~~ determined by the Manager, ~~to determine the number of assistants and subordinates in and for any department or office subject to the appropriations made therefor.~~

**EMERGENCY ORDINANCE NO. \_\_\_\_\_**

**AN EMERGENCY ORDINANCE TO PROVIDE FOR THE SUBMISSION TO THE ELECTORS OF THE CITY OF HAMILTON, OHIO, AT THE GENERAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2020, A PROPOSED AMENDMENT TO THE CITY CHARTER THE PROVISIONS OF ARTICLE III, THE COUNCIL, SECTION 3.01(A)(4), POWERS OF COUNCIL, AND ARTICLE V, ADMINISTRATIVE SERVICE, SECTION 5.09, NUMBER OF ASSISTANTS AND SUBORDINATES; HOW FIXED, AS SET FORTH IN FULL IN THIS EMERGENCY ORDINANCE.**

WHEREAS, the existing Charter of the City of Hamilton, Ohio has been reviewed by the Charter Review Commission and the Council of the City of Hamilton, Ohio, and Council has recommended that Article III and Article V of the Charter be amended; and

WHEREAS, based upon that review, The Charter Review Commission has recommended that City Council pass an ordinance to submit a proposed amendment to the Charter to the electors, which proposed amendment will amend Article III, The Council, Section 3.01(A)(4), Powers of Council, and Article V, Administrative Service, Section 5.09, Number of Assistants and Subordinates; How Fixed; and

WHEREAS, Article III, Section 3.01(A)(4) of the current Charter of the City of Hamilton, Ohio provides as follows:

**ARTICLE III**

**THE COUNCIL**

**3.01 Powers of Council**

(A) All legislative power of the City shall be vested in the Council, except as otherwise provided by this Charter and the Constitution of the State of Ohio. Without limitation of the foregoing, the Council shall have and possess the following powers:

(4) The power, by ordinance or resolution, to establish or authorize the number of officers and employees in the various offices, departments, divisions, bureaus, boards and commissions of the City and to establish or authorize the establishment of the rate of their compensation, hours of work, and to provide such other fringe benefits and conditions of employment as deemed proper by the Council or as determined by the law governing public sector collective bargaining.

; and

WHEREAS, Article V, Section 5.09 of the current Charter of the City of Hamilton, Ohio provides as follows:

**ARTICLE V**

**ADMINISTRATIVE SERVICE**

**5.09 Number of Assistants and Subordinates; How Fixed**

The number of assistants and other subordinates to be employed in or by each department or office shall be fixed by the Council; unless the Council shall authorize the Manager to determine the number of assistants and subordinates in and for any department or office subject to the appropriations made therefor.

; and

**Emergency Ordinance No. \_\_\_\_\_ (cont'd)**

WHEREAS, this Council has recommended that Article III, Section 3.01(A)(4), Powers of Council, of the Hamilton Charter, which governs the authority and powers the Council has, and Article V, Section 5.09, Number of Assistants and Subordinates; How Fixed, which governs Council's authority to set the number of appointment or employees of each department unless they assign that authority to the Manager, be amended to give the Manager the authority to set the number of employees of each City department. Amending Section 3.01(A)(4) would complement this amendment of 5.09 by removing the reference of Council's authority to set the number of employees in City departments; and

WHEREAS, based upon the recommendation of the Charter Review Commission, at least two-thirds of this Council, as required by Section 9 of Article XVIII of the Ohio Constitution, desires to submit an amendment to the Charter of the City of Hamilton, Ohio to the electors of the City at the next general election to be held on Tuesday, November 3, 2020; and

WHEREAS, the subject matter herein constitutes an emergency in that it provides for the immediate preservation of the public peace, property, safety and welfare of the community in that such emergency measure shall permit the election authorities and other officials named in this ordinance to take the necessary actions and to make preparation for the submission of the amendment to the electors of the City at the general election to be held on Tuesday, November 3, 2020;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hamilton, Ohio:

SECTION I: That the proposed amendment to Article III, Section 3.01(A)(4), and Article V, Section 5.09, of the Charter of the City of Hamilton, Ohio, which provides the structure of the Civil Service Commission, shall be submitted to the electors of the City of Hamilton, Ohio for adoption or rejection at the next general election to be held on Tuesday, November 3, 2020. A vote of the majority of the electors of the City of Hamilton, Ohio, voting on the proposed amendment, is required for adoption of said amendment. The proposed amendment is to amend Article III, The Council, Section 3.01(A)(4), Powers of Council, and Article V, Administrative Service, Section 5.09, Number of Assistants and Subordinates; How Fixed, of the Charter of the City of Hamilton, Ohio, with the proposed amendment to Sections 3.01(A)(4) and 5.09 to read as follows:

**ARTICLE III**

**THE COUNCIL**

**3.01 Powers of Council**

(A) All legislative power of the City shall be vested in the Council, except as otherwise provided by this Charter and the Constitution of the State of Ohio. Without limitation of the foregoing, the Council shall have and possess the following powers:

(4) The power, by ordinance or resolution, to establish or authorize the number of officers in the various boards and commissions of the City and to establish or authorize the establishment of the rate of their compensation, hours of work, and to provide such other fringe benefits and conditions of employment as deemed proper by the Council or as determined by the law governing public sector collective bargaining.

Emergency Ordinance No. \_\_\_\_\_ (cont'd)

**ARTICLE V**

**ADMINISTRATIVE SERVICE**

**5.09 Number of Assistants and Subordinates; How Fixed**

The number of assistants and other subordinates to be employed in or by each department or office shall be determined by the City Manager.

SECTION II: That the City Clerk is hereby directed to certify the amendment as set forth above to the Board of Elections of Butler County, Ohio for submission to the electors of the City of Hamilton, Ohio, at the next general election to be held on Tuesday, November 3, 2020, to be conducted at the usual places of holding and conducting elections in the City of Hamilton and between the usual hours of opening and closing the polls on election days as required by the Constitution and the laws of the State of Ohio.

SECTION III: That the amendment herein set forth shall be submitted to the electors in such a way so as to allow votes thereon to be cast separately from votes cast on any other question. Said amendment shall be designated on the ballot by its descriptive title as hereinafter set forth or in such other form as shall be determined by the election authorities. The adoption of such amendment by its descriptive title shall have the effect of adopting its text in full as set forth in this ordinance. The form of ballot to be used at said general election shall be as follows or in such other form as shall be determined by the election authorities.

**OFFICIAL BALLOT**

General Election  
November 3, 2020  
City of Hamilton, Ohio

**PROPOSED AMENDMENT TO THE CHARTER OF THE CITY OF  
HAMILTON, OHIO**

Submitted by the City Council

A Majority Affirmative Vote Is Necessary for Passage

**THE QUESTION**

Shall Article III, Section 3.01(A)(4) and Article V, Section 5.09 of the Charter of the City of Hamilton, Ohio be amended to give the City Manager the authority to set the number of employees in City departments and offices and remove such authority from the legislative process and powers of approval of City Council?

\_\_\_\_\_  
For the Amendment

\_\_\_\_\_  
Against the Amendment

Emergency Ordinance No. \_\_\_\_\_ (cont'd)

SECTION IV: That the City Clerk shall cause the full text of this ordinance and the proposed Charter amendment contained herein to be published once a week for not less than two (2) consecutive weeks in the Journal News, a newspaper published in the City of Hamilton, Ohio, with the first publication being at least fifteen (15) days prior to the election at which the proposed Charter amendment is to be submitted to the electors of the City of Hamilton as authorized by Section 9 of Article XVIII of the Ohio Constitution and Section 731.211 of the Ohio Revised Code.

SECTION V: That the Board of Elections of Butler County, Ohio, shall certify to the City of Hamilton, Ohio, the result of the vote on said amendment, and if said amendment is approved by a majority vote of those voting thereon, Article III, Section 3.01(A)(4) and Article V, Section 5.09, as amended, shall become a part of the Charter of the City of Hamilton, Ohio. Said Board of Elections shall, if the amendment is so approved by the electors, deliver a certified copy of such amendment to the Secretary of State, as provided by Section 9 of Article XVIII of the Ohio Constitution.

SECTION VI: That the Board of Elections of Butler County, Ohio, be and it is hereby directed to give public notice of the time and place of holding such election by publication of such notice at least ten (10) days prior to the date of such election in a newspaper published and of general circulation in the City of Hamilton, Ohio, and to give such other notice, if any, as may be required by law and to take such other actions and to make such arrangements as is necessary for the conduct of the election with respect to the proposed Charter amendment authorized by this ordinance. That the City Manager and Director of Law are hereby authorized to take any other actions required to submit such amendment to the electors of the City on the date fixed in this ordinance.

SECTION VII: This ordinance is hereby declared to be an emergency measure for the reasons set forth in the preamble hereto and shall take force from and after its passage.

PASSED: \_\_\_\_\_

Effective Date: \_\_\_\_\_

\_\_\_\_\_  
Mayor

ATTEST: \_\_\_\_\_  
City Clerk

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk for the City of Hamilton, Butler County, Ohio, hereby certify that the foregoing Emergency Ordinance No. \_\_\_\_\_ was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in the lobby of City Hall for a period of ten days. POSTED: \_\_\_\_\_.

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk of the City of Hamilton, Ohio, State of Ohio, I further certify that the foregoing Emergency Ordinance No. \_\_\_\_\_ was passed by a two-thirds majority of the members of the Council of the City of Hamilton, Ohio with \_\_\_\_\_ Council Members voting in favor of and \_\_\_\_\_ Council Members voting against the Emergency Ordinance, and that this is a true and exact copy of the Emergency Ordinance adopted by the Council of the City of Hamilton on August 12, 2020.

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**

Date: \_\_\_\_\_

## City Council Meeting Staff Report

**Report To:** The Honorable Mayor Patrick Moeller & Members of the City Council

**Report From:** The Charter Review Commission  
Timothy Werdmann, Esq., Executive Director of Internal Services  
Nicholas Garuckas, City Clerk

**Agenda Item:** An Emergency Ordinance to provide for the submission to the electors of the City of Hamilton, Ohio, at the General Election to be held on Tuesday, November 3, 2020, a proposed amendment to the City Charter the provisions of Article III, The Council, Section 3.05, Compensation of Officials, as set forth in full in this ordinance.

<p><b>Approvals/Reviews</b> <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i></p>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	<p><b>Related Strategic Goal(s)</b></p> <input type="checkbox"/> <b>I</b> Realize new investments <input type="checkbox"/> <b>J</b> Increase gross wages <input type="checkbox"/> <b>P</b> Increase property values <input type="checkbox"/> <b>R</b> Generate recreational investments <input type="checkbox"/> <b>E</b> Engage citizens in activities <input checked="" type="checkbox"/> <b>O</b> General operations
<p><b>Ordinance or Resolution</b> <i>Emergency Ordinance</i></p>	<input checked="" type="checkbox"/> 1 <sup>st</sup> Reading Date: 7-22-2020 <input checked="" type="checkbox"/> 2 <sup>nd</sup> Reading Date: 8-12-2020 <input type="checkbox"/> Resolution Date: <input checked="" type="checkbox"/> Public Hearing Date: 7-22-2020	
<p><b>Prior Action/Review</b> <i>Please note if this item was discussed on a prior Council or other agenda</i></p>	<p><b>City Council (or other):</b> Caucus Report 6-24-2020 City Council Meeting</p>	
<p><b>Contract</b></p>	<input type="checkbox"/> Contract Required	<input checked="" type="checkbox"/> Additional Document(s) Attached
<p><b>Fiscal Impact</b></p>	<p>Budgeted: Less than \$1,000 Expenditure: \$ Source Funds:</p>	<p><i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i></p>

**Policy Issue**

Does City Council wish to adopt legislation to submit the proposed amendment of Article III, The Council, Section 3.05, Compensation of Officials, to the Charter of the City of Hamilton, Ohio to the electors at the next general election?

**Policy Alternative(s)**

Council may choose not to adopt legislation to submit proposed amendment of Article III, The Council, Section 3.05, Compensation of Officials, then City Council Members will not explicitly be considered employees of the City.



## **Charter Review Commission and Staff Recommendation**

Staff recommends that Council receive this report and adopt legislation to submit proposed amendment to Article III, The Council, Section 3.05, Compensation of Officials, of the Charter of the City of Hamilton, Ohio to the electors at the next general election. Particularly, it is recommended by the Charter Review Commission and City Staff that the Charter be amended to explicitly recognize Members of Council as employees of the City so as not to disrupt their offered health benefits.

## **Statutory/Policy Authority**

- Section 9, Article XVIII, of the Ohio Constitution.
- Section 3.09, Legislative Procedure, of the Charter of the City of Hamilton.
- Article III, The Council, Section 3.05, Compensation of Officials.

## **Fiscal Impact Summary**

There is no substantial fiscal impact as these amendments are procedural to the Charter of the City of Hamilton, Ohio. The only difference is that if passed, the Council would be explicitly considered City employees with health benefits, however the Council is already offered this and would not affect current costs. It is required that the ordinance be posted in the local newspaper and filing fees may also be due to the Butler County Board of Elections so this issue can be placed on the November 2020 ballot, if passed. These costs are expected to be less than \$1,000.00.

## **Background Information**

The Charter Review Commission heard a proposed amendment to Article III, The Council, Section 3.05, Compensation of Officials, from City Administration as represented by Director Timothy Werdmann. The proposed amendment modifies the language to reflect that Council Members are considered employees of the City. This matters for the health insurance benefit that Council Members are offered after they become registered employees. This has been an offered practice for years but recently an issue with a Council Member's current insurance provider, that is not the City's, needed further clarification of this fact. The proposed change to this section shows greater transparency of this practice for Council, the City, and the people of Hamilton. This amendment does not change the annual Three Hundred and 00/100 Dollars (\$300.00) salary that Council Members are paid for their service.

The Charter Review Commission discussed the topic at their regular meetings on May 26, 2020 and June 8, 2020.

## **Attached Information**

- Redline of proposed amended language to Article III, The Council, Section 3.05, Compensation of Officials

## **Copies Provided to:**

The Charter Review Commission



## ARTICLE III

### THE COUNCIL

#### **3.05 Compensation of Officials.**

The salary of a member of the Council shall be three hundred dollars (\$300.00) per year and shall be paid in equal monthly installments. The Council may by ordinance provide compensation for the Mayor in addition to that which he receives as a member of the Council. As compensated members of the Council, elected officials shall also be considered employees of the City of Hamilton.

(In the event that this Revised Charter proposed at the November 7, 2000, general election by Emergency Ordinance No. EOR2000-8-93 is adopted and the Charter amendment proposed at the November 7, 2000, general election by Emergency Ordinance No. EOR2000-8-94 is also adopted by the electors, then the version of Section "3.05 Compensation of Elected Officials" as set forth in the Charter amendment proposed by Emergency Ordinance No. EOR2000-8-94 shall apply.)

**EMERGENCY ORDINANCE NO. \_\_\_\_\_**

**AN EMERGENCY ORDINANCE TO PROVIDE FOR THE SUBMISSION TO THE ELECTORS OF THE CITY OF HAMILTON, OHIO, AT THE GENERAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2020, A PROPOSED AMENDMENT TO THE CITY CHARTER THE PROVISIONS OF ARTICLE III, THE COUNCIL, SECTION 3.05, COMPENSATION OF OFFICIALS, AS SET FORTH IN FULL IN THIS EMERGENCY ORDINANCE.**

WHEREAS, the existing Charter of the City of Hamilton, Ohio has been reviewed by the Charter Review Commission and the Council of the City of Hamilton, Ohio, and Council has recommended that Articles III of the Charter be amended; and

WHEREAS, based upon that review, The Charter Review Commission has recommended that City Council pass an ordinance to submit a proposed amendment to the Charter to the electors, which proposed amendment will amend Article III, The Council, Section 3.05, Compensation of Officials; and

WHEREAS, Article III, Section 3.05 of the current Charter of the City of Hamilton, Ohio provides as follows:

**ARTICLE III**

**THE COUNCIL**

**3.05 Compensation of Officials**

The salary of a member of the Council shall be three hundred dollars (\$300.00) per year and shall be paid in equal monthly installments. The Council may by ordinance provide compensation for the Mayor in addition to that which he receives as a member of the Council.

(In the event that this Revised Charter proposed at the November 7, 2000, general election by Emergency Ordinance No. EOR2000-8-93 is adopted and the Charter amendment proposed at the November 7, 2000, general election by Emergency Ordinance No. EOR2000-8-94 is also adopted by the electors, then the version of Section "3.05 Compensation of Elected Officials" as set forth in the Charter amendment proposed by Emergency Ordinance No. EOR2000-8-94 shall apply.)

; and

WHEREAS, this Council has recommended that Article III, Section 3.05, Compensation of Officials, of the Hamilton Charter, which governs the Council's payment or any financial benefit that they may receive for serving as Members be amended to make it clear that Council Members are to be considered employees of the City of Hamilton for health benefits and tax purposes. The current payment of Three Hundred and 00/100 Dollars (\$300.00) per Council Member is not being altered. Council Members have been offered City health benefits for years, but the proposed language will better communicate this with health care providers; and

WHEREAS, based upon the recommendation of the Charter Review Commission, at least two-thirds of this Council, as required by Section 9 of Article XVIII of the Ohio Constitution, desires to submit an amendment to the Charter of the City of Hamilton, Ohio to the electors of the City at the next general election to be held on Tuesday, November 3, 2020; and

WHEREAS, the subject matter herein constitutes an emergency in that it provides for the immediate preservation of the public peace, property, safety and welfare of the community in that such emergency measure shall permit the election authorities and other officials named in this ordinance to take the necessary actions and to make preparation for the submission of the amendment to the electors of the City at the general election to be held on Tuesday, November 3, 2020;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hamilton, Ohio:

**Emergency Ordinance No. \_\_\_\_\_ (cont'd)**

SECTION I: That the proposed amendment to Article III, Sections 3.05, of the Charter of the City of Hamilton, Ohio, which provides the structure of the Council's payment or any financial benefit that individuals may receive for serving as Members, shall be submitted to the electors of the City of Hamilton, Ohio for adoption or rejection at the next general election to be held on Tuesday, November 3, 2020. A vote of the majority of the electors of the City of Hamilton, Ohio, voting on the proposed amendment, is required for adoption of said amendment. The proposed amendment is to amend Article III, The Council, Section 3.05, Compensation of Officials, of the Charter of the City of Hamilton, Ohio, with the proposed amendment to Section 3.05 to read as follows:

### **ARTICLE III**

#### **THE COUNCIL**

##### **3.05 Compensation of Officials**

The salary of a member of the Council shall be three hundred dollars (\$300.00) per year and shall be paid in equal monthly installments. The Council may by ordinance provide compensation for the Mayor in addition to that which he receives as a member of the Council. As compensated members of the Council, elected officials shall also be considered employees of the City of Hamilton.

SECTION II: That the City Clerk is hereby directed to certify the amendment as set forth above to the Board of Elections of Butler County, Ohio for submission to the electors of the City of Hamilton, Ohio, at the next general election to be held on Tuesday, November 3, 2020, to be conducted at the usual places of holding and conducting elections in the City of Hamilton and between the usual hours of opening and closing the polls on election days as required by the Constitution and the laws of the State of Ohio.

SECTION III: That the amendment herein set forth shall be submitted to the electors in such a way so as to allow votes thereon to be cast separately from votes cast on any other question. Said amendment shall be designated on the ballot by its descriptive title as hereinafter set forth or in such other form as shall be determined by the election authorities. The adoption of such amendment by its descriptive title shall have the effect of adopting its text in full as set forth in this ordinance. The form of ballot to be used at said general election shall be as follows or in such other form as shall be determined by the election authorities.

Emergency Ordinance No. \_\_\_\_\_ (cont'd)

**OFFICIAL BALLOT**

General Election  
November 3, 2020  
City of Hamilton, Ohio

**PROPOSED AMENDMENT TO THE CHARTER OF THE CITY OF  
HAMILTON, OHIO**  
Submitted by the City Council

A Majority Affirmative Vote Is Necessary for Passage

**THE QUESTION**

“Shall Article III, Section 3.05 of the Charter of the City of Hamilton, Ohio be amended to expand and clarify City Council’s benefits to recognize City Council members as employees of the City for health and other benefits?”

\_\_\_\_\_  
For the Amendment

\_\_\_\_\_  
Against the Amendment

SECTION IV: That the City Clerk shall cause the full text of this ordinance and the proposed Charter amendment contained herein to be published once a week for not less than two (2) consecutive weeks in the **Journal News**, a newspaper published in the City of Hamilton, Ohio, with the first publication being at least fifteen (15) days prior to the election at which the proposed Charter amendment is to be submitted to the electors of the City of Hamilton as authorized by Section 9 of Article XVIII of the Ohio Constitution and Section 731.211 of the Ohio Revised Code.

SECTION V: That the Board of Elections of Butler County, Ohio, shall certify to the City of Hamilton, Ohio, the result of the vote on said amendment, and if said amendment is approved by a majority vote of those voting thereon, Article III, The Council, Section 3.05, Compensation of Officials, as amended, shall become a part of the Charter of the City of Hamilton, Ohio. Said Board of Elections shall, if the amendment is so approved by the electors, deliver a certified copy of such amendment to the Secretary of State, as provided by Section 9 of Article XVIII of the Ohio Constitution.

SECTION VI: That the Board of Elections of Butler County, Ohio, be and it is hereby directed to give public notice of the time and place of holding such election by publication of such notice at least ten (10) days prior to the date of such election in a newspaper published and of general circulation in the City of Hamilton, Ohio, and to give such other notice, if any, as may be required by law and to take such other actions and to make such arrangements as is necessary for the conduct of the election with respect to the proposed Charter amendment authorized by this ordinance. That the City Manager and Director of Law are hereby authorized to take any other actions required to submit such amendment to the electors of the City on the date fixed in this ordinance.

SECTION VII: This ordinance is hereby declared to be an emergency measure for the reasons set forth in the preamble hereto and shall take force from and after its passage.

Emergency Ordinance No. \_\_\_\_\_ (cont'd)

PASSED: \_\_\_\_\_

Effective Date: \_\_\_\_\_

\_\_\_\_\_  
Mayor

ATTEST: \_\_\_\_\_  
City Clerk

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk for the City of Hamilton, Butler County, Ohio, hereby certify that the foregoing Emergency Ordinance No. \_\_\_\_\_ was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in the lobby of City Hall for a period of ten days. POSTED: \_\_\_\_\_.

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk of the City of Hamilton, Ohio, State of Ohio, I further certify that the foregoing Emergency Ordinance No. \_\_\_\_\_ was passed by a two-thirds majority of the members of the Council of the City of Hamilton, Ohio with \_\_\_\_\_ Council Members voting in favor of and \_\_\_\_\_ Council Members voting against the Emergency Ordinance, and that this is a true and exact copy of the Emergency Ordinance adopted by the Council of the City of Hamilton on August 12, 2020.

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**

Date: \_\_\_\_\_

## City Council Meeting Staff Report

**Report To:** The Honorable Mayor Patrick Moeller & Members of the City Council

**Report From:** The Charter Review Commission  
Nicholas Garuckas, City Clerk

**Agenda Item:** An Emergency Ordinance to provide for the submission to the electors of the City of Hamilton, Ohio, at the General Election to be held on Tuesday, November 3, 2020, a proposed amendment to the City Charter the provisions of Article III, The Council, Section 3.07, Rules of Council, Section 3.08, Quorum, Voting Members, Article V, Section 5.04, Council not to Interfere in Appointments or Removals, and Article XVIII, Miscellaneous Provisions, Section 18.02, Financial Interest in Contracts, etc, as set forth in full in this ordinance.

<p><b>Approvals/Reviews</b> <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i></p>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	<p><b>Related Strategic Goal(s)</b></p> <input type="checkbox"/> <b>I</b> Realize new investments <input type="checkbox"/> <b>J</b> Increase gross wages <input type="checkbox"/> <b>P</b> Increase property values <input type="checkbox"/> <b>R</b> Generate recreational investments <input type="checkbox"/> <b>E</b> Engage citizens in activities <input checked="" type="checkbox"/> <b>O</b> General operations
<p><b>Ordinance or Resolution</b> <i>Emergency Ordinance</i></p>	<input checked="" type="checkbox"/> 1 <sup>st</sup> Reading Date: 7-22-2020 <input checked="" type="checkbox"/> 2 <sup>nd</sup> Reading Date: 8-12-2020 <input type="checkbox"/> Resolution Date: <input checked="" type="checkbox"/> Public Hearing Date: 7-22-2020	
<p><b>Prior Action/Review</b> <i>Please note if this item was discussed on a prior Council or other agenda</i></p>	<p><b>City Council (or other):</b> Caucus Report 6-24-2020 City Council Meeting</p>	
<p><b>Contract</b></p>	<input type="checkbox"/> Contract Required	<input checked="" type="checkbox"/> Additional Document(s) Attached
<p><b>Fiscal Impact</b></p>	<p>Budgeted: Less than \$1,000 Expenditure: \$ Source Funds:</p>	<p><i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i></p>

### Policy Issue

Does City Council wish to adopt legislation to submit the proposed amendment of Article III, The Council, Section 3.07, Rules of Council, Section 3.08, Quorum, Voting Members, Article V, Section 5.04, Council not to Interfere in Appointments or Removals, and Article XVIII, Miscellaneous Provisions, Section 18.02, Financial Interest in Contracts, etc, to the Charter of the City of Hamilton, Ohio to the electors at the next general election?

### Policy Alternative(s)

Council may choose not to adopt legislation to submit proposed amendment of Article III, The Council, Section 3.07, Rules of Council, Section 3.08, Quorum, Voting Members, Article V, Section 5.04, Council not to Interfere in Appointments or Removals, and Article XVIII, Miscellaneous Provisions, Section 18.02, Financial Interest in Contracts, etc, then the Charter will reflect that Council Members may be expelled rather than removed, and there will be no clear abstention definitions for when issues of family members could pose as conflicts of interest for Council members.



## **Charter Review Commission and Staff Recommendation**

Staff recommends that Council receive this report and adopt legislation to submit proposed amendment to Article III, The Council, Section 3.07, Rules of Council, Section 3.08, Quorum, Voting Members, Article V, Section 5.04, Council not to Interfere in Appointments or Removals, and Article XVIII, Miscellaneous Provisions, Section 18.02, Financial Interest in Contracts, Etc, of the Charter of the City of Hamilton, Ohio to the electors at the next general election. Particularly, it is recommended by the Charter Review Commission and City Staff that the Charter be amended for the changes in the Council ethics code as it overall enhances the ethic guidelines already setup by in the Charter.

## **Statutory/Policy Authority**

- Section 9, Article XVIII, of the Ohio Constitution.
- Section 3.09, Legislative Procedure, of the Charter of the City of Hamilton.
- Article III, The Council, Section 3.07, Rules of Council, Section 3.08, Quorum, Voting Members.
- Article V, Section 5.04, Council not to Interfere in Appointments or Removals.
- Article XVIII, Miscellaneous Provisions, Section 18.02, Financial Interest in Contracts, etc.

## **Fiscal Impact Summary**

There is no substantial fiscal impact as these amendments are procedural to the Charter of the City of Hamilton, Ohio. The only difference is that if passed, the Council will further guidance on ethic issues that will not affect current costs. It is required that the ordinance be posted in the local newspaper and filing fees may also be due to the Butler County Board of Elections so this issue can be placed on the November 2020 ballot, if passed. These costs are expected to be less than \$1,000.00.

## **Background Information**

The Charter Review Commission heard a proposed amendment to Article III, The Council, Section 3.07, Rules of Council, Section 3.08, Quorum, Voting Members, Article V, Section 5.04, Council not to Interfere in Appointments or Removals, and Article XVIII, Miscellaneous Provisions, Section 18.02, Financial Interest in Contracts, etc, as a result of Commissioner Robert Wile sharing his past experiences as a member of City Council and how he felt further guidance to the Council should be provided by the Charter.

Additionally, it was felt that direct examples of family members should be provided in the Charter so there is less confusion regarding when a Member of Council should abstain from a vote due to a potential conflict of interest. Sections 3.07, 3.08, 5.04, and 18.02 had amendments proposed to reflect these changes throughout. This issue was raised by Mayor Pat Moeller.

The Charter Review Commission discussed the topic at their regular meetings on May 26, 2020 and June 8, 2020.

## **Attached Information**

- Redline of proposed amended language to Article III, The Council, Section 3.07, Rules of Council, Section 3.08, Quorum, Voting Members, Article V, Section 5.04, Council not to Interfere in Appointments or Removals, Article XVIII, Miscellaneous Provisions, Section 18.02, Financial Interest in Contracts, etc.

## **Copies Provided to:**

The Charter Review Commission



## ARTICLE III

### THE COUNCIL

#### 3.07 Rules of Council

The Council shall be the judge of the election and qualification of its members and shall have power to subpoena witnesses and compel the production of all books, records, papers and other evidence; but the decision of the Council in any case shall be subject to review by the courts. The Council shall determine its own rules and order of business and keep a journal of its proceedings. It shall have power to compel the attendance of absent members, may punish its members for disorderly ~~behavior~~conduct and, by vote of not less than five members, may ~~expel~~remove for the duration of their elected or appointed term, a member for disorderly conduct or the violation of its rules; but no member shall be ~~expelled~~removed unless notified of the charge and given an opportunity to be heard in his or her own defense. Absence from three consecutive regular meetings shall operate to ~~vacate the seat of~~remove a member, unless the absence is authorized or excused by the Council. Disorderly conduct appropriate for removal shall include, but not limited to, conduct in violation of the State of Ohio Ethics Laws.

## ARTICLE III

### THE COUNCIL

#### 3.08 Quorum, Voting of Members

A majority of the members elected to the Council shall constitute a quorum to do business, but a lesser number may adjourn from time to time and compel the attendance of absent members in the manner and under the penalties as may be prescribed by ordinance or resolution. The affirmative vote of a majority of the members elected to the Council shall be necessary to adopt any ordinance, resolution, order or vote; except that in the absence of a quorum, a vote to adjourn, or regarding the attendance of absent members, may be adopted by a majority of the members present. No member shall be excused from voting except on matters involving the consideration of his or her own official conduct, when his or her financial interests or the financial interests of his or her immediate family are involved, or when the laws of Ohio require the member to abstain. “Immediate family” means spouse, child or stepchild, grandchild, parent, step-parent, grandparent, brother, sister, parents or step-parents of spouse and grandparents of spouse.

## ARTICLE V

### ADMINISTRATIVE SERVICE

#### **5.04 Council Not to Interfere in Appointments or Removals.**

Neither the Council nor any of its committees or members shall direct or request the appointment of any person to, or his or her removal from, office by the City Manager of any of his or her subordinates, or in any manner take part in the appointment or removal of officers and employees in the administrative service of the City. Except for the purpose of inquiry, the Council and its members shall deal with that portion of the service of the City for which the Manager is responsible solely through the Manager, and neither the Council nor any member thereof shall give orders to any subordinate of the City Manager either publicly or privately. Any violation of the provisions of this section by a member of the Council shall be a misdemeanor, ~~conviction of which shall immediately forfeit the office of the member so convicted.~~ shall be considered disorderly conduct under Charter Section 3.07, and shall result in the member being immediately removed under Section 3.07 by a vote of not less than five members.

## ARTICLE XVIII

### MISCELLANEOUS PROVISIONS

#### 18.02 Financial Interest in Contracts, Etc.

No officer, appointed or elected official, or employee of the City shall have a financial interest, direct or indirect, in any contract with the City, or be financially interested, directly or indirectly, in the sale to the City of any land, materials, supplies, or services except on behalf of the City as an officer, appointed or elected official, or employee. Any willful violation of this section shall constitute malfeasance in office. Any employee who willfully violates this section shall thereby forfeit his or her office or position. Any appointed or elected official or officer not employed by the City who willfully violates this section shall be immediately removed by a vote of not less than five members of City Council. and any officer or employee found guilty thereof shall thereby forfeit his or her office or position. Any violation of this section with the knowledge, expressed or implied, of the person or corporation contracting with the City shall render the contract involved voidable by the City Manager or the Council.

**EMERGENCY ORDINANCE NO. \_\_\_\_\_**

**AN EMERGENCY ORDINANCE TO PROVIDE FOR THE SUBMISSION TO THE ELECTORS OF THE CITY OF HAMILTON, OHIO, AT THE GENERAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2020, A PROPOSED AMENDMENT TO THE CITY CHARTER THE PROVISIONS OF ARTICLE III, THE COUNCIL, SECTION 3.07, RULES OF COUNCIL, SECTION 3.08, QUORUM, VOTING OF MEMBERS, ARTICLE V, ADMINISTRATIVE SERVICE, SECTION 5.04, COUNCIL NOT TO INTERFERE IN APPOINTMENTS OR REMOVALS, AND ARTICLE XVIII, MISCELLANEOUS PROVISIONS, SECTION 18.02, FINANCIAL INTEREST IN CONTRACTS, ETC., AS SET FORTH IN FULL IN THIS EMERGENCY ORDINANCE.**

WHEREAS, the existing Charter of the City of Hamilton, Ohio has been reviewed by the Charter Review Commission and the Council of the City of Hamilton, Ohio, and Council has recommended that Articles III, V, and XVIII of the Charter be amended; and

WHEREAS, based upon that review, The Charter Review Commission has recommended that City Council pass an ordinance to submit a proposed amendment to the Charter to the electors, which proposed amendment will amend Article III, The Council, Section 3.07, Rules of Council, Section 3.08, Quorum, Voting of Members, Article V, Administrative Service, Section 5.04, Council Not to Interfere in Appointments or Removals, and Article XVIII, Miscellaneous Provisions, Section 18.02, Financial Interest in Contracts, Etc.; and

WHEREAS, Article III, Section 3.07 of the current Charter of the City of Hamilton, Ohio provides as follows:

**ARTICLE III**

**THE COUNCIL**

**3.07 Rules of Council**

The Council shall be the judge of the election and qualification of its members and shall have power to subpoena witnesses and compel the production of all books, records, papers and other evidence; but the decision of the Council in any case shall be subject to review by the courts. The Council shall determine its own rules and order of business and keep a journal of its proceedings. It shall have power to compel the attendance of absent members, may punish its members for disorderly behavior and, by vote of not less than five members, may expel a member for disorderly conduct or the violation of its rules; but no member shall be expelled unless notified of the charge and given an opportunity to be heard in his or her own defense. Absence from three consecutive regular meetings shall operate to vacate the seat of a member unless the absence is authorized or excused by the Council.

; and

WHEREAS, Article III, Section 3.08 of the current Charter of the City of Hamilton, Ohio provides as follows:

Emergency Ordinance No. \_\_\_\_\_ (cont'd)

**ARTICLE III**

**THE COUNCIL**

**3.08 Quorum, Voting of Members**

A majority of the members elected to the Council shall constitute a quorum to do business, but a lesser number may adjourn from time to time and compel the attendance of absent members in the manner and under the penalties as may be prescribed by ordinance or resolution. The affirmative vote of a majority of the members elected to the Council shall be necessary to adopt any ordinance, resolution, order or vote; except that in the absence of a quorum, a vote to adjourn, or regarding the attendance of absent members, may be adopted by a majority of the members present. No member shall be excused from voting except on matters involving the consideration of his or her own official conduct, when his or her financial interests are involved, or when the laws of Ohio require the member to abstain.

; and

WHEREAS, Article V, Section 5.04 of the current Charter of the City of Hamilton, Ohio provides as follows:

**ARTICLE V**

**ADMINISTRATIVE SERVICE**

**5.04 Council Not to Interfere in Appointments or Removals**

Neither the Council nor any of its committees or members shall direct or request the appointment of any person to, or his or her removal from, office by the City Manager of any of his or her subordinates, or in any manner take part in the appointment or removal of officers and employees in the administrative service of the City. Except for the purpose of inquiry, the Council and its members shall deal with that portion of the service of the City for which the Manager is responsible solely through the Manager, and neither the Council nor any member thereof shall give orders to any subordinate of the City Manager either publicly or privately. Any violation of the provisions of this section by a member of the Council shall be a misdemeanor, conviction of which shall immediately forfeit the office of the member so convicted.

; and

WHEREAS, Article XVIII, Section 18.02 of the current Charter of the City of Hamilton, Ohio provides as follows:

**ARTICLE XVIII**

**MISCELLANEOUS PROVISIONS**

**18.02 Financial Interest in Contracts, Etc.**

No officer or employee of the City shall have a financial interest, direct or indirect, in any contract with the City, or be financially interested, directly or indirectly, in the sale to the City of any land, materials, supplies, or services except on behalf of the City as an officer or employee. Any willful violation of this section shall constitute malfeasance in office, and any officer or employee found guilty thereof shall thereby forfeit his or her office or position. Any violation of this section with the knowledge, expressed or implied, of the person or corporation contracting with the City shall render the contract involved voidable by the City Manager or the Council.

; and

WHEREAS, this Council has recommended that Article III, Section 3.07, Rules of Council, of the Hamilton Charter, which governs the Council's ability to govern itself in terms of what are considered offense against the public's trust be amended to make it clear that a Council Members may be removed from their office for the duration of the elected term if Members fail to attend regular meetings or violate the conduct provided by the State of Ohio Ethics Laws; and

WHEREAS, this Council has recommended that Article III, Section 3.08, Quorum, Voting of Members, of the Hamilton Charter, which governs the needed number of Members that must be present to have a meeting and discusses how a Member may vote on issue be amended to expand the explanation of when a Member may and should exclude themselves from voting on an issue. The proposed language defines financial benefits of family members that may cause a conflict of interest when Council is voting on a particular issue. If this occurs then the Council needs to abstain from that particular vote or risk breaking the State of Ohio Ethics Laws; and

WHEREAS, this Council has recommended that Article V, Section 5.04, Council Not to Interfere in Appointments or Removals, of the Hamilton Charter, which governs Council's inability to involve itself with the duties of the City Manager when the Manager is filling a position he has been given the authority to fill be amended to keep this consistent with the proposed revisions of Section 3.07 where Council no longer has the authority to expel one of its Members but rather have them removed from Office. This amendment will not affect Council's inability to interfere with Manager related appointments; and

WHEREAS, this Council has recommended that Article XVIII, Section 18.02, Financial Interests in Contracts, Etc., of the Hamilton Charter, which governs that no officer or City employee may use their position to personally financially benefit whether directly or indirectly from their office in the City or face consequences for their actions be amended to include appointed or elected officials. The amendment to this section will echo the sentiments of the proposed amendments for Sections 3.07 and 3.08 where Council Members may be removed from Office if the engage in such activities; and

WHEREAS, based upon the recommendation of the Charter Review Commission, at least two-thirds of this Council, as required by Section 9 of Article XVIII of the Ohio Constitution, desires to submit an amendment to the Charter of the City of Hamilton, Ohio to the electors of the City at the next general election to be held on Tuesday, November 3, 2020; and

**Emergency Ordinance No. \_\_\_\_\_ (cont'd)**

WHEREAS, the subject matter herein constitutes an emergency in that it provides for the immediate preservation of the public peace, property, safety and welfare of the community in that such emergency measure shall permit the election authorities and other officials named in this ordinance to take the necessary actions and to make preparation for the submission of the amendment to the electors of the City at the general election to be held on Tuesday, November 3, 2020;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hamilton, Ohio:

SECTION I: That the proposed amendment to Article III, Sections 3.07 and 3.08, and Article V, Section 5.04, and Article XVIII, Section 18.02, of the Charter of the City of Hamilton, Ohio, which provides the structure of the Council and activities that may be not engage in or risk violating the State of Ohio Ethics Laws and be removed from Office, shall be submitted to the electors of the City of Hamilton, Ohio for adoption or rejection at the next general election to be held on Tuesday, November 3, 2020. A vote of the majority of the electors of the City of Hamilton, Ohio, voting on the proposed amendment, is required for adoption of said amendment. The proposed amendment is to amend Article III, The Council, Section 3.07, Rules of Council, Section 3.08, Quorum, Voting of Members, Article V, Administrative Service, Section 5.04, Council Not to Interfere in Appointments or Removals, and Article XVIII, Section 18.02, Financial Interest in Contracts, Etc., of the Charter of the City of Hamilton, Ohio, with the proposed amendment to Sections 3.07, 3.08, 5.04, and 18.02 to read as follows:

**ARTICLE III**

**THE COUNCIL**

**3.07 Rules of Council**

The Council shall be the judge of the election and qualification of its members and shall have power to subpoena witnesses and compel the production of all books, records, papers and other evidence; but the decision of the Council in any case shall be subject to review by the courts. The Council shall determine its own rules and order of business and keep a journal of its proceedings. It shall have power to compel the attendance of absent members, may punish its members for disorderly conduct and, by vote of not less than five members, may remove for the duration of their elected or appointed term, a member for disorderly conduct or the violation of its rules; but no member shall be removed unless notified of the charge and given an opportunity to be heard in his or her own defense. Absence from three consecutive regular meetings shall operate to remove a member, unless the absence is authorized or excused by the Council. Disorderly conduct appropriate for removal shall include, but not limited to, conduct in violation of the State of Ohio Ethics Laws.

**ARTICLE III**

**THE COUNCIL**

**3.08 Quorum, Voting of Members**

A majority of the members elected to the Council shall constitute a quorum to do business, but a lesser number may adjourn from time to time and compel the attendance of absent members in the manner and under the penalties as may be prescribed by ordinance or resolution. The affirmative vote of a majority of the members elected to the Council shall be necessary to adopt any ordinance, resolution, order or vote; except that in the absence of a quorum, a vote to adjourn, or regarding the attendance of absent members, may be adopted by a majority of the members present. No member shall be excused from voting except on matters involving the consideration of his or her own official conduct, when his or her financial interests or the financial interests of his or her immediate family are involved, or when the laws of Ohio require the member to abstain. "Immediate family" means spouse, child or stepchild, grandchild, parent, step-parent, grandparent, brother, sister, parents or step-parents of spouse and grandparents of spouse.

**ARTICLE V**

**ADMINISTRATIVE SERVICE**

**5.04 Council Not to Interfere in Appointments or Removals**

Neither the Council nor any of its committees or members shall direct or request the appointment of any person to, or his or her removal from, office by the City Manager of any of his or her subordinates, or in any manner take part in the appointment or removal of officers and employees in the administrative service of the City. Except for the purpose of inquiry, the Council and its members shall deal with that portion of the service of the City for which the Manager is responsible solely through the Manager, and neither the Council nor any member thereof shall give orders to any subordinate of the City Manager either publicly or privately. Any violation of the provisions of this section by a member of the Council shall be a misdemeanor, shall be considered disorderly conduct under Charter Section 3.07, and shall result in the member being immediately removed under Section 3.07 by a vote of not less than five members.

**ARTICLE XVIII**

**MISCELLANEOUS PROVISIONS**

**18.02 Financial Interest in Contracts, Etc.**

No officer, appointed or elected official, or employee of the City shall have a financial interest, direct or indirect, in any contract with the City, or be financially interested, directly or indirectly, in the sale to the City of any land, materials, supplies, or services except on behalf of the City as an officer, appointed or elected official, or employee. Any willful violation of this section shall constitute malfeasance in office. Any employee who willfully violates this section shall thereby forfeit his or her office or position. Any appointed or elected official or officer not employed by the City who willfully violates this section shall be immediately removed by a vote of not less than five members of City Council. Any violation of this section with the knowledge, expressed or implied, of the person or corporation contracting with the City shall render the contract involved voidable by the City Manager or the Council.

SECTION II: That the City Clerk is hereby directed to certify the amendment as set forth above to the Board of Elections of Butler County, Ohio for submission to the electors of the City of Hamilton, Ohio, at the next general election to be held on Tuesday, November 3, 2020, to be conducted at the usual places of holding and conducting elections in the City of Hamilton and between the usual hours of opening and closing the polls on election days as required by the Constitution and the laws of the State of Ohio.

SECTION III: That the amendment herein set forth shall be submitted to the electors in such a way so as to allow votes thereon to be cast separately from votes cast on any other question. Said amendment shall be designated on the ballot by its descriptive title as hereinafter set forth or in such other form as shall be determined by the election authorities. The adoption of such amendment by its descriptive title shall have the effect of adopting its text in full as set forth in this ordinance. The form of ballot to be used at said general election shall be as follows or in such other form as shall be determined by the election authorities.

Emergency Ordinance No. \_\_\_\_\_ (cont'd)

**OFFICIAL BALLOT**

General Election  
November 3, 2020  
City of Hamilton, Ohio

**PROPOSED AMENDMENT TO THE CHARTER OF THE CITY OF  
HAMILTON, OHIO**

Submitted by the City Council

A Majority Affirmative Vote Is Necessary for Passage

**THE QUESTION**

“Shall Article III, Sections 3.07 and 3.08, Article V, Section 5.04, and Article XVIII, Section 18.02 of the Charter of the City of Hamilton, Ohio be amended to expand and clarify City Council’s ethical responsibilities to clarify that Council Members are not expelled but removed from Office if they violate State of Ohio Ethics Laws or other ethics violations, to expand the definition of when Council Members must abstain from voting as to not have a family member benefit from such vote, to reaffirm that if Council interferes with City Manager related appointments that this may constitute as a removable offense from Office even if it does not result in a misdemeanor conviction if a violation is found by a vote of not less than five (5) out of the seven (7) City Council Members, and to reaffirm that Council cannot financially benefit from contracts of the City or be removed from Office with a vote of not less than five (5) out of the seven (7) City Council Members?”

\_\_\_\_\_  
For the Amendment

\_\_\_\_\_  
Against the Amendment

SECTION IV: That the City Clerk shall cause the full text of this ordinance and the proposed Charter amendment contained herein to be published once a week for not less than two (2) consecutive weeks in the **Journal News**, a newspaper published in the City of Hamilton, Ohio, with the first publication being at least fifteen (15) days prior to the election at which the proposed Charter amendment is to be submitted to the electors of the City of Hamilton as authorized by Section 9 of Article XVIII of the Ohio Constitution and Section 731.211 of the Ohio Revised Code.

SECTION V: That the Board of Elections of Butler County, Ohio, shall certify to the City of Hamilton, Ohio, the result of the vote on said amendment, and if said amendment is approved by a majority vote of those voting thereon, Article III, The Council, Section 3.07, Rules of Council, Section 3.08, Quorum, Voting of Members, Article V, Administrative Service, Section 5.04, Council Not to Interfere in Appointments or Removals, and Article XVIII, Section 18.02, Financial Interest in Contracts, Etc., as amended, shall become a part of the Charter of the City of Hamilton, Ohio. Said Board of Elections shall, if the amendment is so approved by the electors, deliver a certified copy of such amendment to the Secretary of State, as provided by Section 9 of Article XVIII of the Ohio Constitution.

**Emergency Ordinance No. \_\_\_\_\_ (cont'd)**

SECTION VI: That the Board of Elections of Butler County, Ohio, be and it is hereby directed to give public notice of the time and place of holding such election by publication of such notice at least ten (10) days prior to the date of such election in a newspaper published and of general circulation in the City of Hamilton, Ohio, and to give such other notice, if any, as may be required by law and to take such other actions and to make such arrangements as is necessary for the conduct of the election with respect to the proposed Charter amendment authorized by this ordinance. That the City Manager and Director of Law are hereby authorized to take any other actions required to submit such amendment to the electors of the City on the date fixed in this ordinance.

SECTION VII: This ordinance is hereby declared to be an emergency measure for the reasons set forth in the preamble hereto and shall take force from and after its passage.

PASSED: \_\_\_\_\_

Effective Date: \_\_\_\_\_

\_\_\_\_\_  
Mayor

ATTEST: \_\_\_\_\_  
City Clerk

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk for the City of Hamilton, Butler County, Ohio, hereby certify that the foregoing Emergency Ordinance No. \_\_\_\_\_ was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in the lobby of City Hall for a period of ten days. POSTED: \_\_\_\_\_.

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk of the City of Hamilton, Ohio, State of Ohio, I further certify that the foregoing Emergency Ordinance No. \_\_\_\_\_ was passed by a two-thirds majority of the members of the Council of the City of Hamilton, Ohio with \_\_\_\_\_ Council Members voting in favor of and \_\_\_\_\_ Council Members voting against the Emergency Ordinance, and that this is a true and exact copy of the Emergency Ordinance adopted by the Council of the City of Hamilton on August 12, 2020.

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**

Date: \_\_\_\_\_

## City Council Meeting Staff Report

**Report To:** The Honorable Mayor Patrick Moeller & Members of the City Council

**Report From:** The Charter Review Commission  
Nicholas Garuckas, City Clerk

**Agenda Item:** An Emergency Ordinance to provide for the submission to the electors of the City of Hamilton, Ohio, at the General Election to be held on Tuesday, November 3, 2020, a proposed amendment to the City Charter the provisions of Article III, The Council, Section 3.11, When Ordinances and Resolutions Take Effect, and a new Section 3.13, Publication for Public Hearings, as set forth in full in this ordinance.

<p><b>Approvals/Reviews</b> <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i></p>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	<p><b>Related Strategic Goal(s)</b></p> <input type="checkbox"/> <b>I</b> Realize new investments <input type="checkbox"/> <b>J</b> Increase gross wages <input type="checkbox"/> <b>P</b> Increase property values <input type="checkbox"/> <b>R</b> Generate recreational investments <input type="checkbox"/> <b>E</b> Engage citizens in activities <input checked="" type="checkbox"/> <b>O</b> General operations
<p><b>Ordinance or Resolution</b> <i>Emergency Ordinance</i></p>	<input checked="" type="checkbox"/> 1 <sup>st</sup> Reading Date: 7-22-2020 <input checked="" type="checkbox"/> 2 <sup>nd</sup> Reading Date: 8-12-2020 <input type="checkbox"/> Resolution Date: <input checked="" type="checkbox"/> Public Hearing Date: 7-22-2020	
<p><b>Prior Action/Review</b> <i>Please note if this item was discussed on a prior Council or other agenda</i></p>	<p><b>City Council (or other):</b> Caucus Report 6-24-2020 City Council Meeting</p>	
<p><b>Contract</b></p>	<input type="checkbox"/> Contract Required	<input checked="" type="checkbox"/> Additional Document(s) Attached
<p><b>Fiscal Impact</b></p>	<p>Budgeted: Less than \$1,000</p>	<p><i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i></p>
	<p>Expenditure: \$</p>	
	<p>Source Funds:</p>	

**Policy Issue**

Does City Council wish to adopt legislation to submit the proposed amendment of Article III, The Council, Section 3.11, When Ordinances and Resolutions Take Effect, and a new Section 3.13, Publication for Public Hearings, to the Charter of the City of Hamilton, Ohio to the electors at the next general election?

**Policy Alternative(s)**

Council may choose not to adopt legislation to submit proposed amendment of Article III, The Council, Section 3.11, When Ordinances and Resolutions Take Effect, and a new Section 3.13, Publication for Public Hearings, to the Charter of City of Hamilton, Ohio to the electors at the next general election. If City Council decides not to propose the amendment to Section 3.11 and a new Section 3.13, then the legislative process of the City will remain the same with resolutions having implied immediate effectiveness and public hearing notices only being allowed to be published in the newspaper.



## **Charter Review Commission and Staff Recommendation**

Staff recommends that Council receive this report and adopt legislation to submit proposed amendment to Article III, The Council, Section 3.11, When Ordinances and Resolutions Take Effect, and a new Section 3.13, Publication for Public Hearings, of the Charter of the City of Hamilton, Ohio to the electors at the next general election. Particularly, it is recommended by the Charter Review Commission and City Staff that the Charter be amended to have resolutions effective dates be made more clear in the legislative process and allow for the publication of public hearing notices on the City website for the purpose of saving the City from that expense and providing a new venue upon which more people may view these notices.

## **Statutory/Policy Authority**

- Section 9, Article XVIII, of the Ohio Constitution.
- Section 3.09, Legislative Procedure, of the Charter of the City of Hamilton.
- Article III, The Council, Section 3.11, When Ordinances and Resolutions Take Effect.
- Establishing a new Article III, The Council, Section 3.13, Publication for Public Hearings.

## **Fiscal Impact Summary**

There is no substantial fiscal impact as these amendments are procedural to the Charter of the City of Hamilton, Ohio. The only difference is that if passed, resolutions will explicitly be labeled as effective immediately if passed. Additionally, if a new Section 3.13 is established, then the City will be able to have a cost savings of at least \$2,000 per year due to the City no longer needing to pay for publishing costs from the local newspaper. It is required that the ordinance be posted in the local newspaper and filing fees may also be due to the Butler County Board of Elections so this issue can be placed on the November 2020 ballot, if passed. These costs are expected to be less than \$1,000.00.

## **Background Information**

The Charter Review Commission heard a proposed amendment to Article III, The Council, Article III, The Council, as proposals from the Office of the City Clerk represented by Nick Garuckas. Amending Section 3.11 would clarify the legislative process that resolution go into effect immediately. This is a standard practice throughout the State of Ohio but with how our Charter is currently written it is more implied than stated and this proposal would make this clearer.

Section 3.13 would be a new section of the Charter of the City of Hamilton, Ohio and would allow for the publication of public hearing notices to either be through a local newspaper or through electronic means. Currently, all public hearings that are required through the legislative process are sent to the local newspaper and the City is charged for this service every time one is needed. By allowing for the publication of these notices on avenues such as the City website, it would allow the City utilize its funds more wisely and provide a great range of reach than the newspaper. These issues both affect the legislative process and have been grouped together for this reason.

The Charter Review Commission discussed the topic at their regular meetings on June 22, 2020 and July 6, 2020.

## **Attached Information**

- Redline of proposed amended language to Article III, The Council, Section 3.11, When Ordinances and Resolutions Take Effect
- Proposed language of the new Article III, The Council, Section 3.13, Publication for Public Hearings

## **Copies Provided to:**

The Charter Review Commission



## ARTICLE III

### THE COUNCIL

#### 3.11 When Ordinances and Resolutions Take Effect

Appropriation ordinances and resolutions, ordinances and resolutions pertaining to local improvements and assessments, ordinances and resolutions providing for or directing any investigation of City affairs, ordinances or resolutions requesting information from administrative officers or directing administrative action, and emergency measures, shall be in effect from and after their passage by the Council unless some other time is specified therein. All other resolutions passed by Council shall take effect immediately upon passage; ~~—a~~All other ordinances ~~and resolutions~~ passed by the Council shall be in effect from and after thirty days from the date of their passage except those in which a later date for taking effect is specified. Ordinances adopted by vote of the electors shall take effect at the time indicated therein or, if no time is specified, then thirty days after their adoption. An emergency measure is an ordinance or resolution to provide for the immediate preservation of the public peace, property, health or safety, in which the emergency claimed is set forth and defined in the ordinance or resolution. The affirmative vote of a least five members of Council shall be required to pass any ordinance or resolution as an emergency measure. No measure making or amending a grant, renewal or extension of a franchise or other special privilege shall be passed as an emergency measure.

**New Section:**

**ARTICLE III  
THE COUNCIL**

**Section 3.13 Publication for Public Hearings**

A public hearing required by law to be published by the City shall be published electronically on the City's website or in a newspaper of general circulation in the City or may be supplemented with other electronic media generally available to the public.

**EMERGENCY ORDINANCE NO. \_\_\_\_\_**

**AN EMERGENCY ORDINANCE TO PROVIDE FOR THE SUBMISSION TO THE ELECTORS OF THE CITY OF HAMILTON, OHIO, AT THE GENERAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2020, A PROPOSED AMENDMENT TO THE CITY CHARTER THE PROVISIONS OF ARTICLE III, THE COUNCIL, SECTION 3.11, WHEN ORDINANCES AND RESOLUTIONS TAKE EFFECT, AND A NEW SECTION 3.13, PUBLICATION FOR PUBLIC HEARINGS, AS SET FORTH IN FULL IN THIS EMERGENCY ORDINANCE.**

WHEREAS, the existing Charter of the City of Hamilton, Ohio has been reviewed by the Charter Review Commission and the Council of the City of Hamilton, Ohio, and Council has recommended that Articles III of the Charter be amended; and

WHEREAS, based upon that review The Charter Review Commission has recommended that City Council pass an ordinance to submit a proposed amendment to the Charter to the electors, which proposed amendment will amend Article III, The Council, Section 3.11, When Ordinances and Resolutions Take Effect, and a new Section 3.13, Publication for Public Hearings; and

WHEREAS, Article III, Section 3.11 of the current Charter of the City of Hamilton, Ohio provides as follows:

**ARTICLE III**

**THE COUNCIL**

**3.11 When Ordinances and Resolutions Take Effect**

Appropriation ordinances and resolutions, ordinances and resolutions pertaining to local improvements and assessments, ordinances and resolutions providing for or directing any investigation of City affairs, ordinances or resolutions requesting information from administrative officers or directing administrative action, and emergency measures, shall be in effect from and after their passage by the Council unless some other time is specified therein. All other ordinances and resolutions passed by the Council shall be in effect from and after thirty days from the date of their passage except those in which a later date for taking effect is specified. Ordinances adopted by vote of the electors shall take effect at the time indicated therein or, if no time is specified, then thirty days after their adoption. An emergency measure is an ordinance or resolution to provide for the immediate preservation of the public peace, property, health or safety, in which the emergency claimed is set forth and defined in the ordinance or resolution. The affirmative vote of a least five members of Council shall be required to pass any ordinance or resolution as an emergency measure. No measure making or amending a grant, renewal or extension of a franchise or other special privilege shall be passed as an emergency measure.

; and

WHEREAS, Article III, Section 3.13 would be a new Section to the current Charter of the City of Hamilton, Ohio and would provide as follows:

Emergency Ordinance No. \_\_\_\_\_ (cont'd)

**ARTICLE III**

**THE COUNCIL**

**3.13 Publication for Public Hearings**

A public hearing required by law to be published by the City shall be published electronically on the City's website or in a newspaper of general circulation in the City or may be supplemented with other electronic media generally available to the public.

; and

WHEREAS, this Council has recommended that Article III, Section 3.11, When Ordinances and Resolutions Take Effect, of the Hamilton Charter, which governs how ordinances and resolutions are passed and effective, be amended and a new Section 3.13, Publication for Public Hearings, be established. Amending Section 3.11 would clarify the legislative process that resolution go into effect immediately. This is a standard practice throughout the State of Ohio but is more implied than stated in current Charter language. Section 3.13 would be a new section of the Charter of the City of Hamilton, Ohio and would allow for the publication of public hearing notices to either be through a local newspaper or through electronic means. Currently, all public hearings notices that are required through the legislative process are sent for publication in the local newspaper and the City is charged a fee for each published notice. By allowing for the publication of these notices on avenues such as the City website, it would allow the City utilize its funds more wisely and provide a greater range of reach than the local newspaper; and

WHEREAS, based upon the recommendation of the Charter Review Commission, at least two-thirds of this Council, as required by Section 9 of Article XVIII of the Ohio Constitution, desires to submit an amendment to the Charter of the City of Hamilton, Ohio to the electors of the City at the next general election to be held on Tuesday, November 3, 2020; and

WHEREAS, the subject matter herein constitutes an emergency in that it provides for the immediate preservation of the public peace, property, safety and welfare of the community in that such emergency measure shall permit the election authorities and other officials named in this ordinance to take the necessary actions and to make preparation for the submission of the amendment to the electors of the City at the general election to be held on Tuesday, November 3, 2020;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hamilton, Ohio:

SECTION I: That the proposed amendment to Article III, Section 3.11, and a new Section 3.13, of the Charter of the City of Hamilton, Ohio, which provides the structure for legislation and the Public Hearing Noticing Process, shall be submitted to the electors of the City of Hamilton, Ohio for adoption or rejection at the next general election to be held on Tuesday, November 3, 2020. A vote of the majority of the electors of the City of Hamilton, Ohio, voting on the proposed amendment, is required for adoption of said amendment. The proposed amendment is to amend Article III, The Council, Section 3.11, When Ordinances and Resolutions Take Effect, and a new Section 3.13, Publication for Public Hearings, of the Charter of the City of Hamilton, Ohio, with the proposed amendment to Sections 3.11 and a new 3.13 to read as follows:

Emergency Ordinance No. \_\_\_\_\_ (cont'd)

**ARTICLE III**

**THE COUNCIL**

**3.11 When Ordinances and Resolutions Take Effect**

Appropriation ordinances and resolutions, ordinances and resolutions pertaining to local improvements and assessments, ordinances and resolutions providing for or directing any investigation of City affairs, ordinances or resolutions requesting information from administrative officers or directing administrative action, and emergency measures, shall be in effect from and after their passage by the Council unless some other time is specified therein. All other resolutions passed by Council shall take effect immediately upon passage; all other ordinances passed by the Council shall be in effect from and after thirty days from the date of their passage except those in which a later date for taking effect is specified. Ordinances adopted by vote of the electors shall take effect at the time indicated therein or, if no time is specified, then thirty days after their adoption. An emergency measure is an ordinance or resolution to provide for the immediate preservation of the public peace, property, health or safety, in which the emergency claimed is set forth and defined in the ordinance or resolution. The affirmative vote of a least five members of Council shall be required to pass any ordinance or resolution as an emergency measure. No measure making or amending a grant, renewal or extension of a franchise or other special privilege shall be passed as an emergency measure.

**ARTICLE III**

**THE COUNCIL**

**3.13 Publication for Public Hearings**

A public hearing required by law to be published by the City shall be published electronically on the City's website or in a newspaper of general circulation in the City or may be supplemented with other electronic media generally available to the public.

SECTION II: That the City Clerk is hereby directed to certify the amendment as set forth above to the Board of Elections of Butler County, Ohio for submission to the electors of the City of Hamilton, Ohio, at the next general election to be held on Tuesday, November 3, 2020, to be conducted at the usual places of holding and conducting elections in the City of Hamilton and between the usual hours of opening and closing the polls on election days as required by the Constitution and the laws of the State of Ohio.

SECTION III: That the amendment herein set forth shall be submitted to the electors in such a way so as to allow votes thereon to be cast separately from votes cast on any other question. Said amendment shall be designated on the ballot by its descriptive title as hereinafter set forth or in such other form as shall be determined by the election authorities. The adoption of such amendment by its descriptive title shall have the effect of adopting its text in full as set forth in this ordinance. The form of ballot to be used at said general election shall be as follows or in such other form as shall be determined by the election authorities.

Emergency Ordinance No. \_\_\_\_\_ (cont'd)

**OFFICIAL BALLOT**

General Election  
November 3, 2020  
City of Hamilton, Ohio

**PROPOSED AMENDMENT TO THE CHARTER OF THE CITY OF  
HAMILTON, OHIO**  
Submitted by the City Council

A Majority Affirmative Vote Is Necessary for Passage

**THE QUESTION**

Shall Article III, Section 3.11 be amended and a new Section 3.13 of the Charter of the City of Hamilton, Ohio be established to clarify that resolutions of City Council are generally effective immediately and to establish the ability of the City to publish public hearing notices on the City's website or other electronic media instead of publication via newspaper when allowed by law?

---

For the Amendment

---

Against the Amendment

---

SECTION IV: That the City Clerk shall cause the full text of this ordinance and the proposed Charter amendment contained herein to be published once a week for not less than two (2) consecutive weeks in the Journal News, a newspaper published in the City of Hamilton, Ohio, with the first publication being at least fifteen (15) days prior to the election at which the proposed Charter amendment is to be submitted to the electors of the City of Hamilton as authorized by Section 9 of Article XVIII of the Ohio Constitution and Section 731.211 of the Ohio Revised Code.

SECTION V: That the Board of Elections of Butler County, Ohio, shall certify to the City of Hamilton, Ohio, the result of the vote on said amendment, and if said amendment is approved by a majority vote of those voting thereon, Article III, Section 3.11 and Section 3.13, as amended and established, shall become a part of the Charter of the City of Hamilton, Ohio. Said Board of Elections shall, if the amendment is so approved by the electors, deliver a certified copy of such amendment to the Secretary of State, as provided by Section 9 of Article XVIII of the Ohio Constitution.

SECTION VI: That the Board of Elections of Butler County, Ohio, be and it is hereby directed to give public notice of the time and place of holding such election by publication of such notice at least ten (10) days prior to the date of such election in a newspaper published and of general circulation in the City of Hamilton, Ohio, and to give such other notice, if any, as may be required by law and to take such other actions and to make such arrangements as is necessary for the conduct of the election with respect to the proposed Charter amendment authorized by this ordinance. That the City Manager and Director of Law are hereby authorized to take any other actions required to submit such amendment to the electors of the City on the date fixed in this ordinance.

Emergency Ordinance No. \_\_\_\_\_ (cont'd)

SECTION VII: This ordinance is hereby declared to be an emergency measure for the reasons set forth in the preamble hereto and shall take force from and after its passage.

PASSED: \_\_\_\_\_

Effective Date: \_\_\_\_\_

\_\_\_\_\_  
Mayor

ATTEST: \_\_\_\_\_

City Clerk

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk for the City of Hamilton, Butler County, Ohio, hereby certify that the foregoing Emergency Ordinance No. \_\_\_\_\_ was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in the lobby of City Hall for a period of ten days. POSTED: \_\_\_\_\_.

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk of the City of Hamilton, Ohio, State of Ohio, I further certify that the foregoing Emergency Ordinance No. \_\_\_\_\_ was passed by a two-thirds majority of the members of the Council of the City of Hamilton, Ohio with \_\_\_\_\_ Council Members voting in favor of and \_\_\_\_\_ Council Members voting against the Emergency Ordinance, and that this is a true and exact copy of the Emergency Ordinance adopted by the Council of the City of Hamilton on August 12, 2020.

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**

Date: \_\_\_\_\_

## City Council Meeting Staff Report

**Report To:** The Honorable Mayor Patrick Moeller & Members of the City Council

**Report From:** The Charter Review Commission  
Timothy Werdmann, Esq., Executive Director of Internal Services  
Nicholas Garuckas, City Clerk

**Agenda Item:** An Emergency Ordinance to provide for the submission to the electors of the City of Hamilton, Ohio, at the General Election to be held on Tuesday, November 3, 2020, a proposed amendment to the City Charter the provisions of Article V, Administrative Service, Section 5.03, Removal of Officers and Employees, as set forth in full in this ordinance.

<p><b>Approvals/Reviews</b> <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i></p>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	<p><b>Related Strategic Goal(s)</b></p> <input type="checkbox"/> <b>I</b> Realize new investments <input type="checkbox"/> <b>J</b> Increase gross wages <input type="checkbox"/> <b>P</b> Increase property values <input type="checkbox"/> <b>R</b> Generate recreational investments <input type="checkbox"/> <b>E</b> Engage citizens in activities <input checked="" type="checkbox"/> <b>O</b> General operations
<p><b>Ordinance or Resolution</b> <i>Emergency Ordinance</i></p>	<input checked="" type="checkbox"/> 1 <sup>st</sup> Reading Date: 7-22-2020 <input checked="" type="checkbox"/> 2 <sup>nd</sup> Reading Date: 8-12-2020 <input type="checkbox"/> Resolution Date: <input checked="" type="checkbox"/> Public Hearing Date: 7-22-2020	
<p><b>Prior Action/Review</b> <i>Please note if this item was discussed on a prior Council or other agenda</i></p>	<p><b>City Council (or other):</b> Caucus Report 6-24-2020 City Council Meeting</p>	
<p><b>Contract</b></p>	<input type="checkbox"/> Contract Required	<input checked="" type="checkbox"/> Additional Document(s) Attached
<p><b>Fiscal Impact</b></p>	<p>Budgeted: Less than \$1,000</p> <p>Expenditure: \$</p> <p>Source Funds:</p>	<p><i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i></p>

### Policy Issue

Does City Council wish to adopt legislation to submit the proposed amendment of Article V, Administrative Service, Section 5.03, Removal of Officers and Employees, to the Charter of the City of Hamilton, Ohio to the electors at the next general election?

### Policy Alternative(s)

Council may choose not to adopt legislation to submit proposed amendment of Article V, Administrative Service, Section 5.03, Removal of Officers and Employees, to the Charter of City of Hamilton, Ohio to the electors at the next general election. If City Council decides not to propose the amendment to Section 5.03, then language protecting unclassified City employees as having Civil Service Commission appeal rights similar to classified employees will remain in the Charter.



## **Charter Review Commission and Staff Recommendation**

Staff recommends that Council receive this report and adopt legislation to submit proposed amendment to Article V, Administrative Service, Section 5.03, Removal of Officers and Employees, of the Charter of the City of Hamilton, Ohio to the electors at the next general election. Particularly, it is recommended by the Charter Review Commission and City Staff that the Charter be amended to remove the implied notion that all City Employees are guaranteed Civil Service protections such as the right to an appeal when unclassified employees do not have this protection under the civil service provisions of the City's charter.

## **Statutory/Policy Authority**

- Section 9, Article XVIII, of the Ohio Constitution.
- Section 3.09, Legislative Procedure, of the Charter of the City of Hamilton.
- Article V, Administrative Service, Section 5.03, Removal of Officers and Employees.

## **Fiscal Impact Summary**

There is no substantial fiscal impact as these amendments are procedural to the Charter of the City of Hamilton, Ohio. The only difference is that if passed, is that City Employees will be encouraged to seek Civil Service protections from the Civil Service portion of the Charter. It is required that the ordinance be posted in the local newspaper and filing fees may also be due to the Butler County Board of Elections so this issue can be placed on the November 2020 ballot, if passed. These costs are expected to be less than \$1,000.00.

## **Background Information**

The Charter Review Commission heard a proposed amendment to Article V, Administrative Service, Section 5.03, Removal of Officers and Employees, from the City Administration as represented by Director Timothy Werdmann. The Charter Review Commission heard the request at their regular meetings on May 26, 2020 and June 1, 2020.

This section provides guidance on the layoff notices and how they are communicated along with notices of layoffs or removals this section discusses the appeal rights of officers and employees. This would be used by an employee of the City of Hamilton that was given a layoff notice or notice of termination of employment and that employee wishes to make a case against the order to the Civil Service Commission. The section as currently written implies that all employees have this appeal right. This seems to conflict with the premise of employment as an unclassified employee. Unclassified employees are generally considered to be at-will employees and do not enjoy appeal rights related to their employment. While the vast majority of City employees are classified there is a small minority that are not. Per Section 10.02 of the Charter, unclassified employees include the City Manager, Department directors, secretaries to the City Manager and directors, and the City Clerk. Unclassified employees generally do not have Civil Service protection. Section 5.03 as written implies that all employees have these protections.

This amendment, if approved, will remove this ambiguity and would reserve appeal rights to those that are described in Charter Section 10.03, Civil Service Rules. Furthermore, the amendment would make clear that layoff notices and procedures fall under the preview of the Civil Service Commission and Department by removing any reference to them from Section 5.03 of the Charter.

On the August 12, 2020 City Council Meeting Agenda this staff report is for both Agenda Items Numbers 15 and 16. The above background information relates to agenda Items Number 15. Agenda Item Number 16 is an amended version of that proposed ordinance. After the first reading and public hearing on July 22, 2020, Mayor Moeller provided suggested edits to this section relating to the notification of an employees layoff, suspension, or removal. He believed that an employee that has one of these events occur should have the right to request a statement of why such action is being taken.



**Attached Information**

- Redline of proposed amended language to Article V, Administrative Service, Section 5.03, Removal of Officers and Employees (As prepared by the Charter Review Commission).
- Redline of proposed amended language to Article V, Administrative Service, Section 5.03, Removal of Officers and Employees (As amended by Mayor Moeller).

**Copies Provided to:**

The Charter Review Commission



(CHARTER REVIEW COMMISSION VERSION)

ARTICLE V

ADMINISTRATIVE SERVICE

**5.03 Removal of Officers and Employees.**

Any officers or employees of the City, including assistants and employees in the office of the City Clerk, may be laid off, suspended or removed from office or employment by the officer, or successor officer, by whom appointed. Verbal or written notice of layoff, suspension or removal given directly to an officer or employee, or written notice left at or mailed to his usual place of residence shall be sufficient to put any layoff, suspension or removal into effect. ~~unless the person notified shall, within five days after the notice, demand a written statement of the reasons therefor and the right to be heard publicly before the officer by whom the notice was given. Upon that demand, the officer making the layoff, suspension or removal shall supply the person notified with a written statement of the reasons therefor and shall fix a time and place for the public hearing. Following the public hearing, the officer making the layoff, suspension or removal shall, by a decision in writing, make disposition of the case as, in his or her opinion, the good of the service may require, and the decision shall be final. A copy of the statement of reasons for any layoff, suspension or removal, a copy of any written reply thereby by the officer or employee involved, and a copy of the final decision of the officer by whom the layoff, suspension or removal was made, shall be filed as public records in the office of the Director of Civil Service.~~

(A)

Appointments, layoffs, suspensions and removals from office or employment shall be made, and appeals and hearings from layoffs, suspensions and removals shall be allowed, conducted, and determined as provided in ***the Civil Service Rules adopted under Article 10.03 of*** this Charter. The provisions of this Charter shall prevail over State laws in conflict or at variance therewith in every case within the competence of municipal corporations to control by pursuant to this Charter.

(MAYOR MOELLER AMENDED VERSION)

ARTICLE V

ADMINISTRATIVE SERVICE

**5.03 Removal of Officers and Employees.**

Any officers or employees of the City, including assistants and employees in the office of the City Clerk, may be laid off, suspended or removed from office or employment by the officer, or successor officer, by whom appointed. Verbal or written notice of layoff, suspension or removal given directly to an officer or employee, or written notice left at or mailed to his usual place of residence shall be sufficient to put any layoff, suspension or removal into effect. ~~The officer or employee unless the person notified may shall, within five days after the notice, demand a written statement of the reasons for the layoff, suspension, or removal within five days after the notice. therefor and the right to be heard publicly before the officer by whom the notice was given.~~ Upon that demand, the officer making the layoff, suspension or removal shall supply the person notified with a written statement of the reasons therefor. ~~and shall fix a time and place for the public hearing. Following the public hearing, the officer making the layoff, suspension or removal shall, by a decision in writing, make disposition of the case as, in his or her opinion, the good of the service may require, and the decision shall be final.~~ A copy of the statement of reasons for any layoff, suspension or removal and, a copy of any written reply thereby by the officer or employee involved, ~~and a copy of the final decision of the officer by whom the layoff, suspension or removal was made,~~ shall be filed as public records in the office of the Director of Civil ServiceHuman Resources.

Appointments, layoffs, suspensions and removals from office or employment shall be made, and appeals and hearings from layoffs, suspensions and removals shall be allowed, conducted, and determined as provided in ***the Civil Service Rules adopted under Article 10.03 of*** this Charter. The provisions of this Charter shall prevail over State laws in conflict or at variance therewith in every case within the competence of municipal corporations to control by pursuant to this Charter.

**EMERGENCY ORDINANCE NO. \_\_\_\_\_**

**AN EMERGENCY ORDINANCE TO PROVIDE FOR THE SUBMISSION TO THE ELECTORS OF THE CITY OF HAMILTON, OHIO, AT THE GENERAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2020, A PROPOSED AMENDMENT TO THE CITY CHARTER THE PROVISIONS OF ARTICLE V, ADMINISTRATIVE SERVICE, SECTION 5.03, REMOVAL OF OFFICERS AND EMPLOYEES, AS SET FORTH IN FULL IN THIS EMERGENCY ORDINANCE.**

WHEREAS, the existing Charter of the City of Hamilton, Ohio has been reviewed by the Charter Review Commission and the Council of the City of Hamilton, Ohio, and Council has recommended that Article V of the Charter be amended; and

WHEREAS, based upon that review, The Charter Review Commission has recommended that City Council pass an ordinance to submit a proposed amendment to the Charter to the electors, which proposed amendment will amend Article V, Administrative Service, Section 5.03, Removal of Officers and Employees; and

WHEREAS, Article V, Section 5.03 of the current Charter of the City of Hamilton, Ohio provides as follows:

**ARTICLE V**

**ADMINISTRATIVE SERVICE**

**5.03 Removal of Officers and Employees**

Any officers or employees of the City, including assistants and employees in the office of the City Clerk, may be laid off, suspended or removed from office or employment by the officer, or successor officer, by whom appointed. Verbal or written notice of layoff, suspension or removal given directly to an officer or employee, or written notice left at or mailed to his usual place of residence shall be sufficient to put any layoff, suspension or removal into effect unless the person notified shall, within five days after the notice, demand a written statement of the reasons therefor and the right to be heard publicly before the officer by whom the notice was given. Upon that demand, the officer making the layoff, suspension or removal shall supply the person notified with a written statement of the reasons therefor and shall fix a time and place for the public hearing. Following the public hearing, the officer making the layoff, suspension or removal shall, by a decision in writing, make disposition of the case as, in his or her opinion, the good of the service may require, and the decision shall be final. A copy of the statement of reasons for any layoff, suspension or removal, a copy of any written reply thereby by the officer or employee involved, and a copy of the final decision of the officer by whom the layoff, suspension or removal was made, shall be filed as public records in the office of the Director of Civil Service.

(A) Appointments, layoffs, suspensions and removals from office or employment shall be made, and appeals and hearings from layoffs, suspensions and removals shall be allowed, conducted, and determined as provided in this Charter. The provisions of this Charter shall prevail over State laws in conflict or at variance therewith in every case within the competence of municipal corporations to control by pursuant to this Charter.

; and

**Emergency Ordinance No. \_\_\_\_\_ (cont'd)**

WHEREAS, this Council has recommended that Article V, Section 5.03, Removal of Officers and Employees, which governs how an officer or employee may be removed from their position within the City be amended. This section provides guidance on the layoff notices and how they are communicated along with notices of layoffs or removals. Additionally, this section discusses the appeal rights of officers and employees. This section would be utilized by an employee of the City of Hamilton that was given a layoff notice or notice of termination of employment and wishes to make a case against the order to the Civil Service Commission. As the section is currently written, it implies that all employees have this appeal right when unclassified employees do not have those rights under civil service provisions of the City Charter. The amendment to Section 5.03 will remove this ambiguity and direct employees to seek guidance in this matter to the Civil Service Commission as described in Charter Section 10.03, Civil Service Rules; and

WHEREAS, based upon the recommendation of the Charter Review Commission, at least two-thirds of this Council, as required by Section 9 of Article XVIII of the Ohio Constitution, desires to submit an amendment to the Charter of the City of Hamilton, Ohio to the electors of the City at the next general election to be held on Tuesday, November 3, 2020; and

WHEREAS, the subject matter herein constitutes an emergency in that it provides for the immediate preservation of the public peace, property, safety and welfare of the community in that such emergency measure shall permit the election authorities and other officials named in this ordinance to take the necessary actions and to make preparation for the submission of the amendment to the electors of the City at the general election to be held on Tuesday, November 3, 2020;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hamilton, Ohio:

SECTION I: That the proposed amendment to Article V, Section 5.03, of the Charter of the City of Hamilton, Ohio, which provides the structure of the removal or layoff of a City employee, shall be submitted to the electors of the City of Hamilton, Ohio for adoption or rejection at the next general election to be held on Tuesday, November 3, 2020. A vote of the majority of the electors of the City of Hamilton, Ohio, voting on the proposed amendment, is required for adoption of said amendment. The proposed amendment is to amend Article V, Administrative Service, Section 5.03, Removal of Officers and Employees, of the Charter of the City of Hamilton, Ohio, with the proposed amendment to Section 5.03 to read as follows:

**ARTICLE V**

**ADMINISTRATIVE SERVICE**

**5.03 Removal of Officers and Employees**

Any officers or employees of the City, including assistants and employees in the office of the City Clerk, may be laid off, suspended or removed from office or employment by the officer, or successor officer, by whom appointed. Verbal or written notice of layoff, suspension or removal given directly to an officer or employee, or written notice left at or mailed to his usual place of residence shall be sufficient to put any layoff, suspension or removal into effect.

Appointments, layoffs, suspensions and removals from office or employment shall be made, and appeals and hearings from layoffs, suspensions and removals shall be allowed, conducted, and determined as provided in the Civil Service Rules adopted under Article 10.03 of this Charter. The provisions of this Charter shall prevail over State laws in conflict or at variance therewith in every case within the competence of municipal corporations to control by pursuant to this Charter.

**Emergency Ordinance No. \_\_\_\_\_ (cont'd)**

SECTION II: That the City Clerk is hereby directed to certify the amendment as set forth above to the Board of Elections of Butler County, Ohio for submission to the electors of the City of Hamilton, Ohio, at the next general election to be held on Tuesday, November 3, 2020, to be conducted at the usual places of holding and conducting elections in the City of Hamilton and between the usual hours of opening and closing the polls on election days as required by the Constitution and the laws of the State of Ohio.

SECTION III: That the amendment herein set forth shall be submitted to the electors in such a way so as to allow votes thereon to be cast separately from votes cast on any other question. Said amendment shall be designated on the ballot by its descriptive title as hereinafter set forth or in such other form as shall be determined by the election authorities. The adoption of such amendment by its descriptive title shall have the effect of adopting its text in full as set forth in this ordinance. The form of ballot to be used at said general election shall be as follows or in such other form as shall be determined by the election authorities.

**OFFICIAL BALLOT**

General Election  
November 3, 2020  
City of Hamilton, Ohio

**PROPOSED AMENDMENT TO THE CHARTER OF THE CITY OF  
HAMILTON, OHIO**

Submitted by the City Council

A Majority Affirmative Vote Is Necessary for Passage

**THE QUESTION**

Shall Article V, Section 5.03 of the Charter of the City of Hamilton, Ohio be amended as follows to remove language implying that unclassified City of Hamilton employees have notice and appeal rights related to termination decisions:

**“ARTICLE V**

**ADMINISTRATIVE SERVICE**

**5.03 Removal of Officers and Employees**

Any officers or employees of the City, including assistants and employees in the office of the City Clerk, may be laid off, suspended or removed from office or employment by the officer, or successor officer, by whom appointed. Verbal or written notice of layoff, suspension or removal given directly to an officer or employee, or written notice left at or mailed to his usual place of residence shall be sufficient to put any layoff, suspension or removal into effect.

Appointments, layoffs, suspensions and removals from office or employment shall be made, and appeals and hearings from layoffs, suspensions and removals shall be allowed, conducted, and determined as provided in the Civil Service Rules adopted under Article 10.03 of this Charter. The provisions of this Charter shall prevail over State laws in conflict or at variance therewith in every case within the competence of municipal corporations to control by pursuant to this Charter.” ?

Emergency Ordinance No. \_\_\_\_\_ (cont'd)

\_\_\_\_\_  
For the Amendment

\_\_\_\_\_  
Against the Amendment  
\_\_\_\_\_

SECTION IV: That the City Clerk shall cause the full text of this ordinance and the proposed Charter amendment contained herein to be published once a week for not less than two (2) consecutive weeks in the **Journal News**, a newspaper published in the City of Hamilton, Ohio, with the first publication being at least fifteen (15) days prior to the election at which the proposed Charter amendment is to be submitted to the electors of the City of Hamilton as authorized by Section 9 of Article XVIII of the Ohio Constitution and Section 731.211 of the Ohio Revised Code.

SECTION V: That the Board of Elections of Butler County, Ohio, shall certify to the City of Hamilton, Ohio, the result of the vote on said amendment, and if said amendment is approved by a majority vote of those voting thereon, Article V, Section 5.03, as amended, shall become a part of the Charter of the City of Hamilton, Ohio. Said Board of Elections shall, if the amendment is so approved by the electors, deliver a certified copy of such amendment to the Secretary of State, as provided by Section 9 of Article XVIII of the Ohio Constitution.

SECTION VI: That the Board of Elections of Butler County, Ohio, be and it is hereby directed to give public notice of the time and place of holding such election by publication of such notice at least ten (10) days prior to the date of such election in a newspaper published and of general circulation in the City of Hamilton, Ohio, and to give such other notice, if any, as may be required by law and to take such other actions and to make such arrangements as is necessary for the conduct of the election with respect to the proposed Charter amendment authorized by this ordinance. That the City Manager and Director of Law are hereby authorized to take any other actions required to submit such amendment to the electors of the City on the date fixed in this ordinance.

SECTION VII: This ordinance is hereby declared to be an emergency measure for the reasons set forth in the preamble hereto and shall take force from and after its passage.

PASSED: \_\_\_\_\_

Effective Date: \_\_\_\_\_

\_\_\_\_\_  
Mayor

ATTEST: \_\_\_\_\_

City Clerk

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk for the City of Hamilton, Butler County, Ohio, hereby certify that the foregoing Emergency Ordinance No. \_\_\_\_\_ was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in the lobby of City Hall for a period of ten days. POSTED: \_\_\_\_\_.

Emergency Ordinance No. \_\_\_\_\_ (cont'd)

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk of the City of Hamilton, Ohio, State of Ohio, I further certify that the foregoing Emergency Ordinance No. \_\_\_\_\_ was passed by a two-thirds majority of the members of the Council of the City of Hamilton, Ohio with \_\_\_\_\_ Council Members voting in favor of and \_\_\_\_\_ Council Members voting against the Emergency Ordinance, and that this is a true and exact copy of the Emergency Ordinance adopted by the Council of the City of Hamilton on August 12, 2020.

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**

Date: \_\_\_\_\_

**EMERGENCY ORDINANCE NO. \_\_\_\_\_**

**AN EMERGENCY ORDINANCE TO PROVIDE FOR THE SUBMISSION TO THE ELECTORS OF THE CITY OF HAMILTON, OHIO, AT THE GENERAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2020, A PROPOSED AMENDMENT TO THE CITY CHARTER THE PROVISIONS OF ARTICLE V, ADMINISTRATIVE SERVICE, SECTION 5.03, REMOVAL OF OFFICERS AND EMPLOYEES, AS SET FORTH IN FULL IN THIS EMERGENCY ORDINANCE.**

WHEREAS, the existing Charter of the City of Hamilton, Ohio has been reviewed by the Charter Review Commission and the Council of the City of Hamilton, Ohio, and Council has recommended that Article V of the Charter be amended; and

WHEREAS, based upon that review, The Charter Review Commission has recommended that City Council pass an ordinance to submit a proposed amendment to the Charter to the electors, which proposed amendment will amend Article V, Administrative Service, Section 5.03, Removal of Officers and Employees; and

WHEREAS, upon additional review by Council, the proposed language recommended by the Charter Review Commission has been amended to include the notification process of a layoff, suspension or removal of an employee; and

WHEREAS, Article V, Section 5.03 of the current Charter of the City of Hamilton, Ohio provides as follows:

**ARTICLE V**

**ADMINISTRATIVE SERVICE**

**5.03 Removal of Officers and Employees**

Any officers or employees of the City, including assistants and employees in the office of the City Clerk, may be laid off, suspended or removed from office or employment by the officer, or successor officer, by whom appointed. Verbal or written notice of layoff, suspension or removal given directly to an officer or employee, or written notice left at or mailed to his usual place of residence shall be sufficient to put any layoff, suspension or removal into effect unless the person notified shall, within five days after the notice, demand a written statement of the reasons therefor and the right to be heard publicly before the officer by whom the notice was given. Upon that demand, the officer making the layoff, suspension or removal shall supply the person notified with a written statement of the reasons therefor and shall fix a time and place for the public hearing. Following the public hearing, the officer making the layoff, suspension or removal shall, by a decision in writing, make disposition of the case as, in his or her opinion, the good of the service may require, and the decision shall be final. A copy of the statement of reasons for any layoff, suspension or removal, a copy of any written reply thereby by the officer or employee involved, and a copy of the final decision of the officer by whom the layoff, suspension or removal was made, shall be filed as public records in the office of the Director of Civil Service.

(A) Appointments, layoffs, suspensions and removals from office or employment shall be made, and appeals and hearings from layoffs, suspensions and removals shall be allowed, conducted, and determined as provided in this Charter. The provisions of this Charter shall prevail over State laws in conflict or at variance therewith in every case within the competence of municipal corporations to control by pursuant to this Charter.

**Emergency Ordinance No. \_\_\_\_\_ (cont'd)**

; and

WHEREAS, this Council has recommended that Article V, Section 5.03, Removal of Officers and Employees, which governs how an officer or employee may be removed from their position within the City be amended. This section provides guidance on the layoff notices and how they are communicated along with notices of layoffs or removals. Additionally, this section discusses the appeal rights of officers and employees. This section would be utilized by an employee of the City of Hamilton that was given a layoff notice or notice of termination of employment and wishes to make a case against the order to the Civil Service Commission. As the section is currently written, it implies that all employees have this appeal right when unclassified employees do not have those rights under civil service provisions of the City Charter. The amendment to Section 5.03 will remove this ambiguity and direct employees to seek guidance in this matter to the Civil Service Commission as described in Charter Section 10.03, Civil Service Rules; and

WHEREAS, based upon the recommendation of the Charter Review Commission, at least two-thirds of this Council, as required by Section 9 of Article XVIII of the Ohio Constitution, desires to submit an amendment to the Charter of the City of Hamilton, Ohio to the electors of the City at the next general election to be held on Tuesday, November 3, 2020; and

WHEREAS, the subject matter herein constitutes an emergency in that it provides for the immediate preservation of the public peace, property, safety and welfare of the community in that such emergency measure shall permit the election authorities and other officials named in this ordinance to take the necessary actions and to make preparation for the submission of the amendment to the electors of the City at the general election to be held on Tuesday, November 3, 2020;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hamilton, Ohio:

SECTION I: That the proposed amendment to Article V, Section 5.03, of the Charter of the City of Hamilton, Ohio, which provides the structure of the removal or layoff of a City employee, shall be submitted to the electors of the City of Hamilton, Ohio for adoption or rejection at the next general election to be held on Tuesday, November 3, 2020. A vote of the majority of the electors of the City of Hamilton, Ohio, voting on the proposed amendment, is required for adoption of said amendment. The proposed amendment is to amend Article V, Administrative Service, Section 5.03, Removal of Officers and Employees, of the Charter of the City of Hamilton, Ohio, with the proposed amendment to Section 5.03 to read as follows:

**ARTICLE V**

**ADMINISTRATIVE SERVICE**

**5.03 Removal of Officers and Employees**

Any officers or employees of the City, including assistants and employees in the office of the City Clerk, may be laid off, suspended or removed from office or employment by the officer, or successor officer, by whom appointed. Verbal or written notice of layoff, suspension or removal given directly to an officer or employee, or written notice left at or mailed to his usual place of residence shall be sufficient to put any layoff, suspension or removal into effect. The officer or employee notified may demand a written statement of the reasons for the layoff, suspension, or removal within five days after the notice. Upon that demand, the officer making the layoff, suspension or removal shall supply the person notified with a written statement of the reasons therefor. A copy of the statement of reasons for any layoff, suspension or removal and a copy of any written reply thereby by the officer or employee involved shall be filed as public records in the office of the Director of Civil Service.

**Emergency Ordinance No. \_\_\_\_\_ (cont'd)**

Appointments, layoffs, suspensions and removals from office or employment shall be made, and appeals and hearings from layoffs, suspensions and removals shall be allowed, conducted, and determined as provided in the Civil Service Rules adopted under Article 10.03 of this Charter. The provisions of this Charter shall prevail over State laws in conflict or at variance therewith in every case within the competence of municipal corporations to control by pursuant to this Charter.

**SECTION II:** That the City Clerk is hereby directed to certify the amendment as set forth above to the Board of Elections of Butler County, Ohio for submission to the electors of the City of Hamilton, Ohio, at the next general election to be held on Tuesday, November 3, 2020, to be conducted at the usual places of holding and conducting elections in the City of Hamilton and between the usual hours of opening and closing the polls on election days as required by the Constitution and the laws of the State of Ohio.

**SECTION III:** That the amendment herein set forth shall be submitted to the electors in such a way so as to allow votes thereon to be cast separately from votes cast on any other question. Said amendment shall be designated on the ballot by its descriptive title as hereinafter set forth or in such other form as shall be determined by the election authorities. The adoption of such amendment by its descriptive title shall have the effect of adopting its text in full as set forth in this ordinance. The form of ballot to be used at said general election shall be as follows or in such other form as shall be determined by the election authorities.

**OFFICIAL BALLOT**

General Election  
November 3, 2020  
City of Hamilton, Ohio

**PROPOSED AMENDMENT TO THE CHARTER OF THE CITY OF  
HAMILTON, OHIO**

Submitted by the City Council

A Majority Affirmative Vote Is Necessary for Passage

**THE QUESTION**

Shall Article V, Section 5.03 of the Charter of the City of Hamilton, Ohio be amended as follows to remove language implying that unclassified City of Hamilton employees have notice and appeal rights related to termination decisions:

**“ARTICLE V**

**ADMINISTRATIVE SERVICE**

**5.03 Removal of Officers and Employees**

Any officers or employees of the City, including assistants and employees in the office of the City Clerk, may be laid off, suspended or removed from office or employment by the officer, or successor officer, by whom appointed. Verbal or written notice of layoff, suspension or removal given directly to an officer or employee, or written notice left at or mailed to his usual place of residence shall be sufficient to put any layoff, suspension or removal into effect. The officer or employee notified may demand a written statement of the reasons for the layoff, suspension, or removal within five days after the notice. Upon that demand, the officer making the layoff, suspension or removal shall supply the person notified with a written statement of the reasons therefor. A copy of the statement of reasons for any layoff, suspension or removal and a copy of any written reply thereby by the officer or employee involved shall be filed as public records in the office of the Director of Civil Service.

Appointments, layoffs, suspensions and removals from office or employment shall be made, and appeals and hearings from layoffs, suspensions and removals shall be allowed, conducted, and determined as provided in the Civil Service Rules adopted under Article 10.03 of this Charter. The provisions of this Charter shall prevail over State laws in conflict or at variance therewith in every case within the competence of municipal corporations to control by pursuant to this Charter.” ?

\_\_\_\_\_  
For the Amendment

\_\_\_\_\_  
Against the Amendment

SECTION IV: That the City Clerk shall cause the full text of this ordinance and the proposed Charter amendment contained herein to be published once a week for not less than two (2) consecutive weeks in the **Journal News**, a newspaper published in the City of Hamilton, Ohio, with the first publication being at least fifteen (15) days prior to the election at which the proposed Charter amendment is to be submitted to the electors of the City of Hamilton as authorized by Section 9 of Article XVIII of the Ohio Constitution and Section 731.211 of the Ohio Revised Code.

SECTION V: That the Board of Elections of Butler County, Ohio, shall certify to the City of Hamilton, Ohio, the result of the vote on said amendment, and if said amendment is approved by a majority vote of those voting thereon, Article V, Section 5.03, as amended, shall become a part of the Charter of the City of Hamilton, Ohio. Said Board of Elections shall, if the amendment is so approved by the electors, deliver a certified copy of such amendment to the Secretary of State, as provided by Section 9 of Article XVIII of the Ohio Constitution.

**Emergency Ordinance No. \_\_\_\_\_ (cont'd)**

SECTION VI: That the Board of Elections of Butler County, Ohio, be and it is hereby directed to give public notice of the time and place of holding such election by publication of such notice at least ten (10) days prior to the date of such election in a newspaper published and of general circulation in the City of Hamilton, Ohio, and to give such other notice, if any, as may be required by law and to take such other actions and to make such arrangements as is necessary for the conduct of the election with respect to the proposed Charter amendment authorized by this ordinance. That the City Manager and Director of Law are hereby authorized to take any other actions required to submit such amendment to the electors of the City on the date fixed in this ordinance.

SECTION VII: This ordinance is hereby declared to be an emergency measure for the reasons set forth in the preamble hereto and shall take force from and after its passage.

PASSED: \_\_\_\_\_

Effective Date: \_\_\_\_\_

\_\_\_\_\_  
Mayor

ATTEST: \_\_\_\_\_

City Clerk

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk for the City of Hamilton, Butler County, Ohio, hereby certify that the foregoing Emergency Ordinance No. \_\_\_\_\_ was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in the lobby of City Hall for a period of ten days. POSTED: \_\_\_\_\_.

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk of the City of Hamilton, Ohio, State of Ohio, I further certify that the foregoing Emergency Ordinance No. \_\_\_\_\_ was passed by a two-thirds majority of the members of the Council of the City of Hamilton, Ohio with \_\_\_\_\_ Council Members voting in favor of and \_\_\_\_\_ Council Members voting against the Emergency Ordinance, and that this is a true and exact copy of the Emergency Ordinance adopted by the Council of the City of Hamilton on August 12, 2020.

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**

Date: \_\_\_\_\_

## City Council Meeting Staff Report

**Report To:** The Honorable Mayor Patrick Moeller & Members of the City Council

**Report From:** The Charter Review Commission  
Nicholas Garuckas, City Clerk

**Agenda Item:** An Emergency Ordinance to provide for the submission to the electors of the City of Hamilton, Ohio, at the General Election to be held on Tuesday, November 3, 2020, a proposed amendment to the City Charter the provisions of Article VII, Department of Finance – Financial Procedure, Section 7.01, Duties of Director of Finance, as set forth in full in this ordinance.

<p><b>Approvals/Reviews</b> <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i></p>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	<p><b>Related Strategic Goal(s)</b></p> <input type="checkbox"/> <b>I</b> Realize new investments <input type="checkbox"/> <b>J</b> Increase gross wages <input type="checkbox"/> <b>P</b> Increase property values <input type="checkbox"/> <b>R</b> Generate recreational investments <input type="checkbox"/> <b>E</b> Engage citizens in activities <input checked="" type="checkbox"/> <b>O</b> General operations
<p><b>Ordinance or Resolution</b> <i>Emergency Ordinance</i></p>	<input checked="" type="checkbox"/> 1 <sup>st</sup> Reading Date: 7-22-2020 <input checked="" type="checkbox"/> 2 <sup>nd</sup> Reading Date: 8-12-2020 <input type="checkbox"/> Resolution Date: <input checked="" type="checkbox"/> Public Hearing Date: 7-22-2020	
<p><b>Prior Action/Review</b> <i>Please note if this item was discussed on a prior Council or other agenda</i></p>	<p><b>City Council (or other):</b> Caucus Report 6-24-2020 City Council Meeting</p>	
<p><b>Contract</b></p>	<input type="checkbox"/> Contract Required	<input checked="" type="checkbox"/> Additional Document(s) Attached
<p><b>Fiscal Impact</b></p>	<p>Budgeted: Less than \$1,000          Expenditure: \$          Source Funds:</p>	<p><i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i></p>

### Policy Issue

Does City Council wish to adopt legislation to submit the proposed amendment of Article VII, Department of Finance – Financial Procedure, Section 7.01, Duties of Director of Finance, to the Charter of the City of Hamilton, Ohio to the electors at the next general election?

### Policy Alternative(s)

Council may choose not to adopt legislation to submit proposed amendment of Article VII, Department of Finance – Financial Procedure, Section 7.01, Duties of Director of Finance, to the Charter of City of Hamilton, Ohio to the electors at the next general election. If City Council decides not to propose the amendment to Section 7.01, then the City will have not identified current position with at the City to take over the Duties of the Village Clerk or City Auditor.



## **Charter Review Commission and Staff Recommendation**

Staff recommends that Council receive this report and adopt legislation to submit proposed amendment to Article VII, Department of Finance – Financial Procedure, Section 7.01, Duties of Director of Finance, of the Charter of the City of Hamilton, Ohio to the electors at the next general election. Particularly, it is recommended by the Charter Review Commission and City Staff that the Charter be amended to identify a current City position to handle the responsibility of this State recognized position.

## **Statutory/Policy Authority**

- Section 9, Article XVIII, of the Ohio Constitution.
- Section 3.09, Legislative Procedure, of the Charter of the City of Hamilton.
- Article VII, Department of Finance – Financial Procedure, Section 7.01, Duties of Director of Finance.

## **Fiscal Impact Summary**

There is no substantial fiscal impact as these amendments are procedural to the Charter of the City of Hamilton, Ohio. The only difference is that if passed, the Director of Finance will be able to sign and process required paperwork to the State and other agencies as the City Auditor. It is required that the ordinance be posted in the local newspaper and filing fees may also be due to the Butler County Board of Elections so this issue can be placed on the November 2020 ballot, if passed. These costs are expected to be less than \$1,000.00.

## **Background Information**

The Charter Review Commission heard a proposed amendment to Article VII, Department of Finance – Financial Procedure, Section 7.01, Duties of Director of Finance, from the City Administration as represented by City Clerk Nick Garuckas. The Charter Review Commission heard the request at their regular meeting on July 6, 2020.

This amendment, if approved, will commit the additional duties of the City Auditor to that of the Director of Finance. The City of Hamilton does not have the position of City Auditor nor that of a Village Clerk. In certain sections of the Ohio Revised Code, there are instances when the City Auditor or Village Clerk must take a specific action. Since the City has no intention of staffing either position the Director of Finance has agreed to accept the responsibilities and duties of the City Auditor should the need arise. The duties of the City Auditor are relevant when it comes to having the authority to sign off on the appropriate forms for the State or for other agencies. This issue arose when a Citizen's group wanted to petition the City and the Board of Elections to get an issue on the ballot in a previous election. Per state guidelines only the Village Clerk or City Auditor may sign off on the initial petition filing. After consulting legal counsel it was determined that based on the defined duties of each position, the Director of Finance would be the City's version of a City Auditor since the Director of Finance has the authority to make financial decisions for the organization. The current Director of Finance was consulted about this proposed amendment to his Chartered duties before this issue was brought to the Charter Review Commission.

## **Attached Information**

- Redline of proposed amended language to Article VII, Department of Finance – Financial Procedure, Section 7.01, Duties of Director of Finance

## **Copies Provided to:**

The Charter Review Commission



## ARTICLE VII

### DEPARTMENT OF FINANCE - FINANCIAL PROCEDURE

#### 7.01 Duties of Director of Finance

The Director of Finance shall have charge of the administration of the financial affairs of the City, including the keeping and supervision of all accounts; the custody and disbursement of City funds and moneys; the preparation and certification of special assessments and the collection of taxes and assessments as are payable directly to the City; the certification of unpaid assessments to the County Auditor for collection; the service as City Auditor for purposes of the applicable general laws of the State of Ohio; the collection of license fees; the control over expenditures; the purchase, storage and distribution of supplies and materials needed by the City; and other duties as the Council may require by ordinance or resolution.

**EMERGENCY ORDINANCE NO. \_\_\_\_\_**

**AN EMERGENCY ORDINANCE TO PROVIDE FOR THE SUBMISSION TO THE ELECTORS OF THE CITY OF HAMILTON, OHIO, AT THE GENERAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2020, A PROPOSED AMENDMENT TO THE CITY CHARTER THE PROVISIONS OF ARTICLE VII, DEPARTMENT OF FINANCE – FINANCIAL PROCEDURE, SECTION 7.01, DUTIES OF DIRECTOR OF FINANCE, AS SET FORTH IN FULL IN THIS EMERGENCY ORDINANCE.**

WHEREAS, the existing Charter of the City of Hamilton, Ohio has been reviewed by the Charter Review Commission and the Council of the City of Hamilton, Ohio, and Council has recommended that Article VII of the Charter be amended; and

WHEREAS, based upon that review The Charter Review Commission has recommended that City Council pass an ordinance to submit a proposed amendment to the Charter to the electors, which proposed amendment will amend Article VII, Department of Finance – Financial Procedure, Section 7.01, Duties of Director of Finance; and

WHEREAS, Article VII, Section 7.01 of the current Charter of the City of Hamilton, Ohio provides as follows:

**ARTICLE VII**

**DEPARTMENT OF FINANCE - FINANCIAL PROCEDURE**

**7.01 Duties of Director of Finance**

The Director of Finance shall have charge of the administration of the financial affairs of the City, including the keeping and supervision of all accounts; the custody and disbursement of City funds and moneys; the preparation and certification of special assessments and the collection of taxes and assessments as are payable directly to the City; the certification of unpaid assessments to the County Auditor for collection; the collection of license fees; the control over expenditures; the purchase, storage and distribution of supplies and materials needed by the City; and other duties as the Council may require by ordinance or resolution.

; and

WHEREAS, this Council has recommended that Article VII, Section 7.01, Duties of Director of Finance, which governs the core responsibilities of the Director of Finance be amended by adding the additional duties of the City Auditor. The City of Hamilton does not have the position of City Auditor nor that of a Village Clerk. In certain Sections of the Ohio Revised Code, there are instances when the City Auditor or Village Clerk must take a specific action. Since the City has no intention of staffing either position, the Director of Finance has agreed to accept the duties and responsibilities of the City Auditor should the need arise; and

WHEREAS, based upon the recommendation of the Charter Review Commission, at least two-thirds of this Council, as required by Section 9 of Article XVIII of the Ohio Constitution, desires to submit an amendment to the Charter of the City of Hamilton, Ohio to the electors of the City at the next general election to be held on Tuesday, November 3, 2020; and

WHEREAS, the subject matter herein constitutes an emergency in that it provides for the immediate preservation of the public peace, property, safety and welfare of the community in that such emergency measure shall permit the election authorities and other officials named in this ordinance to take the necessary actions and to make preparation for the submission of the amendment to the electors of the City at the general election to be held on Tuesday, November 3, 2020;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hamilton, Ohio:

**Emergency Ordinance No. \_\_\_\_\_ (cont'd)**

SECTION I: That the proposed amendment to Article VII, Section 7.01, of the Charter of the City of Hamilton, Ohio, which provides the structure of the core responsibilities of the Director of Finance, shall be submitted to the electors of the City of Hamilton, Ohio for adoption or rejection at the next general election to be held on Tuesday, November 3, 2020. A vote of the majority of the electors of the City of Hamilton, Ohio, voting on the proposed amendment, is required for adoption of said amendment. The proposed amendment is to amend Article VII, Department of Finance – Financial Procedure, Section 7.01, Duties of Director of Finance, of the Charter of the City of Hamilton, Ohio, with the proposed amendment to Section 7.01 to read as follows:

## **ARTICLE VII**

### **DEPARTMENT OF FINANCE – FINANCIAL PROCEDURE**

#### **7.01 Duties of Director of Finance**

The Director of Finance shall have charge of the administration of the financial affairs of the City, including the keeping and supervision of all accounts; the custody and disbursement of City funds and moneys; the preparation and certification of special assessments and the collection of taxes and assessments as are payable directly to the City; the certification of unpaid assessments to the County Auditor for collection; the service as City Auditor for purposes of the applicable general laws of the State of Ohio; the collection of license fees; the control over expenditures; the purchase, storage and distribution of supplies and materials needed by the City; and other duties as the Council may require by ordinance or resolution.

SECTION II: That the City Clerk is hereby directed to certify the amendment as set forth above to the Board of Elections of Butler County, Ohio for submission to the electors of the City of Hamilton, Ohio, at the next general election to be held on Tuesday, November 3, 2020, to be conducted at the usual places of holding and conducting elections in the City of Hamilton and between the usual hours of opening and closing the polls on election days as required by the Constitution and the laws of the State of Ohio.

SECTION III: That the amendment herein set forth shall be submitted to the electors in such a way so as to allow votes thereon to be cast separately from votes cast on any other question. Said amendment shall be designated on the ballot by its descriptive title as hereinafter set forth or in such other form as shall be determined by the election authorities. The adoption of such amendment by its descriptive title shall have the effect of adopting its text in full as set forth in this ordinance. The form of ballot to be used at said general election shall be as follows or in such other form as shall be determined by the election authorities.

Emergency Ordinance No. \_\_\_\_\_ (cont'd)

**OFFICIAL BALLOT**

General Election  
November 3, 2020  
City of Hamilton, Ohio

**PROPOSED AMENDMENT TO THE CHARTER OF THE CITY OF  
HAMILTON, OHIO**

Submitted by the City Council

A Majority Affirmative Vote Is Necessary for Passage

**THE QUESTION**

Shall Article VII, Section 7.01 of the Charter of the City of Hamilton, Ohio be amended to specify that the Director of Finance shall serve as City Auditor for the purposes of applicable general laws of the State of Ohio?

\_\_\_\_\_  
For the Amendment

\_\_\_\_\_  
Against the Amendment

SECTION IV: That the City Clerk shall cause the full text of this ordinance and the proposed Charter amendment contained herein to be published once a week for not less than two (2) consecutive weeks in the Journal News, a newspaper published in the City of Hamilton, Ohio, with the first publication being at least fifteen (15) days prior to the election at which the proposed Charter amendment is to be submitted to the electors of the City of Hamilton as authorized by Section 9 of Article XVIII of the Ohio Constitution and Section 731.211 of the Ohio Revised Code.

SECTION V: That the Board of Elections of Butler County, Ohio, shall certify to the City of Hamilton, Ohio, the result of the vote on said amendment, and if said amendment is approved by a majority vote of those voting thereon, Article VII, Section 7.01, as amended, shall become a part of the Charter of the City of Hamilton, Ohio. Said Board of Elections shall, if the amendment is so approved by the electors, deliver a certified copy of such amendment to the Secretary of State, as provided by Section 9 of Article XVIII of the Ohio Constitution.

SECTION VI: That the Board of Elections of Butler County, Ohio, be and it is hereby directed to give public notice of the time and place of holding such election by publication of such notice at least ten (10) days prior to the date of such election in a newspaper published and of general circulation in the City of Hamilton, Ohio, and to give such other notice, if any, as may be required by law and to take such other actions and to make such arrangements as is necessary for the conduct of the election with respect to the proposed Charter amendment authorized by this ordinance. That the City Manager and Director of Law are hereby authorized to take any other actions required to submit such amendment to the electors of the City on the date fixed in this ordinance.

SECTION VII: This ordinance is hereby declared to be an emergency measure for the reasons set forth in the preamble hereto and shall take force from and after its passage.

Emergency Ordinance No. \_\_\_\_\_ (cont'd)

PASSED: \_\_\_\_\_

Effective Date: \_\_\_\_\_

\_\_\_\_\_  
Mayor

ATTEST: \_\_\_\_\_  
City Clerk

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk for the City of Hamilton, Butler County, Ohio, hereby certify that the foregoing Emergency Ordinance No. \_\_\_\_\_ was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in the lobby of City Hall for a period of ten days. POSTED: \_\_\_\_\_.

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk of the City of Hamilton, Ohio, State of Ohio, I further certify that the foregoing Emergency Ordinance No. \_\_\_\_\_ was passed by a two-thirds majority of the members of the Council of the City of Hamilton, Ohio with \_\_\_\_\_ Council Members voting in favor of and \_\_\_\_\_ Council Members voting against the Emergency Ordinance, and that this is a true and exact copy of the Emergency Ordinance adopted by the Council of the City of Hamilton on August 12, 2020.

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**

Date: \_\_\_\_\_

## City Council Meeting Staff Report

**Report To:** The Honorable Mayor Patrick Moeller & Members of the City Council

**Report From:** The Charter Review Commission  
Timothy Werdmann, Esq., Executive Director of Internal Services  
Nicholas Garuckas, City Clerk

**Agenda Item:** An Emergency Ordinance to provide for the submission to the electors of the City of Hamilton, Ohio, at the General Election to be held on Tuesday, November 3, 2020, a proposed amendment to the City Charter the provisions of Article IX, Improvement Contracts, as set forth in full in this ordinance.

<p><b>Approvals/Reviews</b> <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i></p>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	<p><b>Related Strategic Goal(s)</b></p> <input type="checkbox"/> <b>I</b> Realize new investments <input type="checkbox"/> <b>J</b> Increase gross wages <input type="checkbox"/> <b>P</b> Increase property values <input type="checkbox"/> <b>R</b> Generate recreational investments <input type="checkbox"/> <b>E</b> Engage citizens in activities <input checked="" type="checkbox"/> <b>O</b> General operations
<p><b>Ordinance or Resolution</b> <i>Emergency Ordinance</i></p>	<input checked="" type="checkbox"/> 1 <sup>st</sup> Reading Date: 7-22-2020 <input checked="" type="checkbox"/> 2 <sup>nd</sup> Reading Date: 8-12-2020 <input type="checkbox"/> Resolution Date: <input checked="" type="checkbox"/> Public Hearing Date: 7-22-2020	
<p><b>Prior Action/Review</b> <i>Please note if this item was discussed on a prior Council or other agenda</i></p>	<p><b>City Council (or other):</b> Caucus Report 6-24-2020 City Council Meeting</p>	
<p><b>Contract</b></p>	<input type="checkbox"/> Contract Required	<input checked="" type="checkbox"/> Additional Document(s) Attached
<p><b>Fiscal Impact</b></p>	<p>Budgeted: Less than \$1,000          Expenditure: \$          Source Funds:</p>	<p><i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i></p>

**Policy Issue**

Does City Council wish to adopt legislation to submit the proposed amendment of Article IX Improvement Contracts to the Charter of the City of Hamilton, Ohio to the electors at the next general election?

**Policy Alternative(s)**

Council may choose not to adopt legislation to submit proposed amendments of Article IX Improvement Contracts to the Charter of City of Hamilton, Ohio to the electors at the next general election. If City Council decides not to propose the amendment to Article IX, Sections 9.01 Contracts and 9.02 Alterations in Contracts, to the electors at the next general election, the current Charter language will remain in place, which will have change orders still be approved by City Council.



## **Charter Review Commission and Staff Recommendation**

Staff recommends that Council receive this report and adopt legislation to submit proposed amendments to Article IX, Sections 9.01 Contracts and 9.02 Alterations in Contracts, of the Charter of the City of Hamilton, Ohio to the electors at the next general election. Particularly, it is recommended by the Charter Review Commission and City Staff that the Charter be amended to have change orders to contracts be handled administratively rather than through City Council as long as the proposed change is within current budget parameters.

## **Statutory/Policy Authority**

- Section 9, Article XVIII, of the Ohio Constitution.
- Section 3.09, Legislative Procedure, of the Charter of the City of Hamilton.
- Article IX, Improvement Contracts, Section 9.01 Contracts and Section 9.02 Alteration in Contracts of the Charter of the City of Hamilton.

## **Fiscal Impact Summary**

There is no substantial fiscal impact as these amendments are procedural revisions to the Charter of the City of Hamilton, Ohio with approvals of change orders in contracts being approved through City Administration rather than at City Council Meetings. It is required that the ordinance be posted in the local newspaper and filing fees may also be due to the Butler County Board of Elections so that this issue can be placed on the November 2020 ballot, if passed. These costs are expected to be less than \$1,000.00.

## **Background Information**

The Charter Review Commission heard proposed amendments to Article IX, "Improvement Contracts" by amending Sections 9.01 Contracts and 9.02 Alterations in Contracts, from City Administration as represented by Director Werdmann. The Charter Review Commission heard the request at their regular meetings on May 26, 2020 and June 1, 2020.

The reasoning for this proposed change is that Council controls the City's annual budget and appropriations on a macro level. Individual contracts and change orders, if within budgeted and appropriated amounts can be handled administratively, without necessitating legislative action. This follows the City's philosophy that if a project has been budgeted for and approved by City Council, then there is no need to have the contract go to City Council for approval. Change orders would now be incorporated under that philosophy.

## **Attached Information**

- Redline of the recommended amendment of Sections 9.01 Contracts and 9.02 Alteration in Contracts

## **Copies Provided to:**

The Charter Review Commission



## ARTICLE IX

### IMPROVEMENT CONTRACTS

#### 9.01 Contracts.

Any public work or improvement may be executed either by contract or by the employment of the necessary labor and the purchase of the necessary supplies and materials directly by the City. Any public work or improvement executed directly by the City shall be **subject to an appropriation of funds by the Council and** authorized by the ~~Council~~ **City Manager** only after detailed estimates have been submitted by the department or office authorized to execute the work or improvement, and there shall be separate accounting as to each work or improvement executed. All the contracts for public work or improvements exceeding an amount established by ordinance or resolution shall be awarded to the lowest and best bidder, after public advertisement and competition as may be prescribed by ordinance or resolution, but the City Manager shall have the power to reject all bids and advertise again. All advertisements as to such contracts shall contain a reservation of the right to reject bids. Contracts entered into by the City shall be signed by the Manager or by such other officer, or officers, of the City as the Council may provide by ordinance or resolution.

#### 9.02 Alteration in Contracts.

Whenever, in the prosecution of any work or improvement under contract, it becomes necessary in the opinion of the City Manager to make alterations in the contract, ~~the alterations may be made only when authorized by the Council upon the written recommendation of the Manager.~~ ~~No~~ **no** alterations shall be valid unless the new price to be paid for any supplies, material or work under the altered contract **has been appropriated and** shall have been agreed upon in writing and signed by the contractor and the Manager prior to such authorization.

**EMERGENCY ORDINANCE NO. \_\_\_\_\_**

**AN EMERGENCY ORDINANCE TO PROVIDE FOR THE SUBMISSION TO THE ELECTORS OF THE CITY OF HAMILTON, OHIO, AT THE GENERAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2020, A PROPOSED AMENDMENT TO THE CITY CHARTER AMENDING THE PROVISIONS OF ARTICLE IX, IMPROVEMENT CONTRACTS, AS SET FORTH IN FULL IN THIS EMERGENCY ORDINANCE.**

WHEREAS, the existing Charter of the City of Hamilton, Ohio has been reviewed by the Charter Review Commission and the Council of the City of Hamilton, Ohio, and Council has recommended that Article IX of the Charter be amended; and

WHEREAS, Article IX of the current Charter of the City of Hamilton, Ohio provides as follows:

**ARTICLE IX  
IMPROVEMENT CONTRACTS**

**9.01 Contracts**

Any Public work or improvement may be executed either by contract or by the employment of the necessary labor and the purchase of the necessary supplies and materials directly by the City. Any public work or improvement executed directly by the City shall be authorized by the Council only after detailed estimates have been submitted by the department or office authorized to execute the work or improvement, and there shall be separate accounting as to each work or improvement executed. All the contracts for public work or improvements exceeding an amount established by ordinance or resolution shall be awarded to the lowest and best bidder, after public advertisement and competition as may be prescribed by ordinance or resolution, but the City Manager shall have the power to reject all bids and advertise again. All advertisements as to such contracts shall contain a reservation of the right to reject bids. Contracts entered into by the City shall be signed by the Manager or by such other officer, or officers, of the City as the Council may provide by ordinance or resolution.

**9.02 Alteration in Contracts**

Whenever, in the prosecution of any work or improvement under contract, it becomes necessary in the opinion of the City Manager to make alterations in the contract, the alterations may be made only when authorized by the Council upon the written recommendation of the Manager. No alterations shall be valid unless the new price to be paid for any supplies, material or work under the altered contract shall have been agreed upon in writing and signed by the contractor and the Manager prior to such authorization.

; and

WHEREAS, this Council has recommended that said Sections 9.01 and 9.02 of the Hamilton Charter be amended as Council controls the budget and appropriations on a macro level. Individual contracts and change orders, if within budgeted and appropriated amounts, can be handled administratively, without necessitating legislative action; and

WHEREAS, based upon the recommendation of the Charter Review Commission, at least two-thirds of this Council, as required by Section 9 of Article XVIII of the Ohio Constitution, desires to submit an amendment to the Charter of the City of Hamilton, Ohio to the electors of the City at the next general election to be held on Tuesday, November 3, 2020; and

**Emergency Ordinance No. \_\_\_\_\_ (cont'd)**

WHEREAS, the subject matter herein constitutes an emergency in that it provides for the immediate preservation of the public peace, property, safety and welfare of the community in that such emergency measure shall permit the election authorities and other officials named in this ordinance to take the necessary actions and to make preparation for the submission of the amendment to the electors of the City at the general election to be held on Tuesday, November 3, 2020;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hamilton, Ohio:

SECTION I: That the proposed amendment to Article IX, of the Charter of the City of Hamilton, Ohio, which provides the structure of Improvement Contracts, shall be submitted to the electors of the City of Hamilton, Ohio for adoption or rejection at the next general election to be held on Tuesday, November 3, 2020. A vote of the majority of the electors of the City of Hamilton, Ohio, voting on the proposed amendment, is required for adoption of said amendment. The proposed amendment is to amend Sections 9.01, Contracts, and 9.02, Alterations in Contracts, of the Charter of the City of Hamilton, Ohio, with the proposed amended Sections 9.01 and 9.02 to read as follows:

**ARTICLE IX  
IMPROVEMENT CONTRACTS**

**9.01 Contracts**

Any Public work or improvement may be executed either by contract or by the employment of the necessary labor and the purchase of the necessary supplies and materials directly by the City. Any public work or improvement executed directly by the City shall be subject to an appropriation of funds by the Council and authorized by the City Manager only after detailed estimates have been submitted by the department or office authorized to execute the work or improvement, and there shall be separate accounting as to each work or improvement executed. All the contracts for public work or improvements exceeding an amount established by ordinance or resolution shall be awarded to the lowest and best bidder, after public advertisement and competition as may be prescribed by ordinance or resolution, but the City Manager shall have the power to reject all bids and advertise again. All advertisements as to such contracts shall contain a reservation of the right to reject bids. Contracts entered into by the City shall be signed by the Manager or by such other officer, or officers, of the City as the Council may provide by ordinance or resolution.

**9.02 Alteration in Contracts**

Whenever, in the prosecution of any work or improvement under contract, it becomes necessary in the opinion of the City Manager to make alterations in the contract, no alterations shall be valid unless the new price to be paid for any supplies, material or work under the altered contract has been appropriated and shall have been agreed upon in writing and signed by the contractor and the Manager prior to such authorization.

SECTION II: That the City Clerk is hereby directed to certify the amendment as set forth above to the Board of Elections of Butler County, Ohio for submission to the electors of the City of Hamilton, Ohio, at the next general election to be held on Tuesday, November 3, 2020, to be conducted at the usual places of holding and conducting elections in the City of Hamilton and between the usual hours of opening and closing the polls on election days as required by the Constitution and the laws of the State of Ohio.

Emergency Ordinance No. \_\_\_\_\_ (cont'd)

SECTION III: That the amendment herein set forth shall be submitted to the electors in such a way so as to allow votes thereon to be cast separately from votes cast on any other question. Said amendment shall be designated on the ballot by its descriptive title as hereinafter set forth or in such other form as shall be determined by the election authorities. The adoption of such amendment by its descriptive title shall have the effect of adopting its text in full as set forth in this ordinance. The form of ballot to be used at said general election shall be as follows or in such other form as shall be determined by the election authorities.

**OFFICIAL BALLOT**

General Election  
November 3, 2020  
City of Hamilton, Ohio

**PROPOSED AMENDMENT TO THE CHARTER OF THE CITY OF  
HAMILTON, OHIO**

Submitted by the City Council

A Majority Affirmative Vote Is Necessary for Passage

**THE QUESTION**

Shall Article IX of the Charter of the City of Hamilton, Ohio be amended as follows:

**“9.01 Contracts**

Any Public work or improvement may be executed either by contract or by the employment of the necessary labor and the purchase of the necessary supplies and materials directly by the City. Any public work or improvement executed directly by the City shall be subject to an appropriation of funds by the Council and authorized by the City Manager only after detailed estimates have been submitted by the department or office authorized to execute the work or improvement, and there shall be separate accounting as to each work or improvement executed. All the contracts for public work or improvements exceeding an amount established by ordinance or resolution shall be awarded to the lowest and best bidder, after public advertisement and competition as may be prescribed by ordinance or resolution, but the City Manager shall have the power to reject all bids and advertise again. All advertisements as to such contracts shall contain a reservation of the right to reject bids. Contracts entered into by the City shall be signed by the Manager or by such other officer, or officers, of the City as the Council may provide by ordinance or resolution.

**9.02 Alteration in Contracts**

Whenever, in the prosecution of any work or improvement under contract, it becomes necessary in the opinion of the City Manager to make alterations in the contract, no alterations shall be valid unless the new price to be paid for any supplies, material or work under the altered contract has been appropriated and shall have been agreed upon in writing and signed by the contractor and the Manager prior to such authorization.” ?

Emergency Ordinance No. \_\_\_\_\_ (cont'd)

\_\_\_\_\_  
For the Amendment

\_\_\_\_\_  
Against the Amendment  
\_\_\_\_\_

SECTION IV: That the City Clerk shall cause the full text of this ordinance and the proposed Charter amendment contained herein to be published once a week for not less than two (2) consecutive weeks in the **Journal News**, a newspaper published in the City of Hamilton, Ohio, with the first publication being at least fifteen (15) days prior to the election at which the proposed Charter amendment is to be submitted to the electors of the City of Hamilton, Ohio, as authorized by Section 9 of Article XVIII of the Ohio Constitution and Section 731.211 of the Ohio Revised Code.

SECTION V: That the Board of Elections of Butler County, Ohio, shall certify to the City of Hamilton, Ohio, the result of the vote on said amendment, and if said amendment is approved by a majority vote of those voting thereon, Article IX, Sections 9.01 and 9.02, as amended, shall become a part of the Charter of the City of Hamilton, Ohio. Said Board of Elections shall, if the amendment is so approved by the electors, deliver a certified copy of such amendment to the Secretary of State, as provided by Section 9 of Article XVIII of the Ohio Constitution.

SECTION VI: That the Board of Elections of Butler County, Ohio, be and it is hereby directed to give public notice of the time and place of holding such election by publication of such notice at least ten (10) days prior to the date of such election in a newspaper published and of general circulation in the City of Hamilton, Ohio, and to give such other notice, if any, as may be required by law and to take such other actions and to make such arrangements as is necessary for the conduct of the election with respect to the proposed Charter amendment authorized by this ordinance. That the City Manager and Director of Law are hereby authorized to take any other actions required to submit such amendment to the electors of the City on the date fixed in this ordinance.

SECTION VII: This ordinance is hereby declared to be an emergency measure for the reasons set forth in the preamble hereto and shall take force from and after its passage.

PASSED: \_\_\_\_\_

Effective Date: \_\_\_\_\_

\_\_\_\_\_  
Mayor

ATTEST: \_\_\_\_\_

City Clerk

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk for the City of Hamilton, Butler County, Ohio, hereby certify that the foregoing Emergency Ordinance No. \_\_\_\_\_ was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in the lobby of City Hall for a period of ten days. POSTED: \_\_\_\_\_.

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**

Emergency Ordinance No. \_\_\_\_\_ (cont'd)

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk of the City of Hamilton, Ohio, State of Ohio, I further certify that the foregoing Emergency Ordinance No. \_\_\_\_\_ was passed by a two-thirds majority of the members of the Council of the City of Hamilton, Ohio with \_\_\_\_\_ Council Members voting in favor of and \_\_\_\_\_ Council Members voting against the Emergency Ordinance, and that this is a true and exact copy of the Emergency Ordinance adopted by the Council of the City of Hamilton on August 12, 2020.

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**

Date: \_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

## City Council Meeting Staff Report

**Report To:** The Honorable Mayor Patrick Moeller & Members of the City Council

**Report From:** The Charter Review Commission  
Jeanne Pope, Director of Civil Service and Personnel  
Nicholas Garuckas, City Clerk

**Agenda Item:** An Emergency Ordinance to provide for the submission to the electors of the City of Hamilton, Ohio, at the General Election to be held on Tuesday, November 3, 2020, a proposed amendment to the City Charter the provisions of Article X, Department of Civil Service, Sections 10.01 - 10.07, Sections 10.10 10.11, and 10.20 and any other references to the Department of Civil Service and Personnel or Director of Civil Service and Personnel in the Charter, by renaming the Department of Civil Service and Personnel to the Department of Human Resources, as set forth in full in this ordinance.

<p><b>Approvals/Reviews</b> <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i></p>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	<p><b>Related Strategic Goal(s)</b></p> <input type="checkbox"/> <b>I</b> Realize new investments <input type="checkbox"/> <b>J</b> Increase gross wages <input type="checkbox"/> <b>P</b> Increase property values <input type="checkbox"/> <b>R</b> Generate recreational investments <input type="checkbox"/> <b>E</b> Engage citizens in activities <input checked="" type="checkbox"/> <b>O</b> General operations
<p><b>Ordinance or Resolution</b> <i>Emergency Ordinance</i></p>	<input checked="" type="checkbox"/> 1 <sup>st</sup> Reading Date: 7-22-2020 <input checked="" type="checkbox"/> 2 <sup>nd</sup> Reading Date: 8-12-2020 <input type="checkbox"/> Resolution Date: <input checked="" type="checkbox"/> Public Hearing Date: 7-22-2020	
<p><b>Prior Action/Review</b> <i>Please note if this item was discussed on a prior Council or other agenda</i></p>	<p><b>City Council (or other):</b> Caucus Report 6-24-2020 City Council Meeting</p>	
<p><b>Contract</b></p>	<input type="checkbox"/> Contract Required	<input checked="" type="checkbox"/> Additional Document(s) Attached
<p><b>Fiscal Impact</b></p>	<p>Budgeted: Less than \$1,000          Expenditure: \$          Source Funds:</p>	<p><i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i></p>

**Policy Issue**

Does City Council wish to adopt legislation to submit the proposed amendment of Article X, “Department of Civil Service and Personnel”, Sections 10.01 – 10.07, Sections 10.10, 10.11, and 10.20 and any other references to the Department of Civil Service and Personnel or Director of Civil Service and Personnel in the Charter of the City of Hamilton, Ohio to the electors at the next general election?

**Policy Alternative(s)**

Council may choose not to adopt legislation to submit proposed amendment of Article X, Department of Civil Service and Personnel, Sections 10.01 – 10.07, Sections 10.10, 10.11, and 10.20 and any other references to the



Department of Civil Service and Personnel or Director of Civil Service and Personnel in the Charter of City of Hamilton, Ohio to the electors at the next general election. If City Council decides not to propose the amendment to Article X, then the Department of Civil Service and Personnel will not be renamed the Department of Human Resources.

### **Charter Review Commission and Staff Recommendation**

Staff recommends that Council receive this report and adopt legislation to submit proposed amendment to Article X, Department of Civil Service and Personnel, Sections 10.01 – 10.07, Sections 10.10, 10.11, and 10.20 and any other references to the Department of Civil Service and Personnel or Director of Civil Service and Personnel in the Charter of the City of Hamilton, Ohio to the electors at the next general election. Particularly, it is recommended by the Charter Review Commission and City Staff that the Charter be amended to reflect the renaming of the Department of Civil Service and Personnel to the Department of Human Resources to better reflect the duties of the department.

### **Statutory/Policy Authority**

- Section 9, Article XVIII, of the Ohio Constitution.
- Section 3.09, Legislative Procedure, of the Charter of the City of Hamilton.
- Article X, Department of Civil Service, Sections 10.01 – 10.07, Sections 10.10, 10.11, and 10.20.

### **Fiscal Impact Summary**

There is no substantial fiscal impact as these amendments are procedural to the Charter of the City of Hamilton, Ohio. The Department of Civil Service and Personnel will still exist whether or not this proposed Charter amendment is passed by Council and submitted to the electors of the City of Hamilton, Ohio. The only difference is that if passed, the name of the department will change. It is required that the ordinance be posted in the local newspaper and filing fees may also be due to the Butler County Board of Elections so this issue can be placed on the November 2020 ballot, if passed. These costs are expected to be less than \$1,000.00.

### **Background Information**

The Charter Review Commission heard a proposed amendment to Article X, “Department of Civil Service and Personnel”, Sections 10.01 – 10.07, Sections 10.10, 10.11, and 10.20 and any other references to the Department of Civil Service and Personnel or Director of Civil Service and Personnel in the Charter from the Director of Civil Service and Personnel, Jeanne Pope. The Charter Review Commission heard the request at their regular meetings on May 26, 2020 and June 1, 2020.

Changing the department name from Civil Service and Personnel to Human Resources indicates that the department moves in a more fluid and knowledgeable fashion to support its employees. It illuminates the fact that the department is interested in the full employment experience from recruitment to retirement. Currently the title, Civil Service and Personnel elucidates that there is only functionality; that it does not comprise of the additional components that aid the organization and its employees in continuing education growing the business and making future investments in new hires

Revising the antiquated name and scope of Civil service and Personnel to Human Resources fulfills the promise that the City of Hamilton will continue to modernize and be in the forefront of change.

### **Attached Information**

- Redline of proposed amended language to Article X, “Department of Civil Service and Personnel”, Sections 10.01 – 10.07, Sections 10.10, 10.11, and 10.20

### **Copies Provided to:**

The Charter Review Commission



## ARTICLE X

### DEPARTMENT OF HUMAN RESOURCES CIVIL SERVICE

#### 10.01 Civil Service Commission

There shall be a department of Human Resources Civil Service governed by a Civil Service Commission of three members. The City Council shall appoint two Commissioners by a vote of at least five members of the Council. Such appointments shall be made to commence on January 1, 2011. One of such members shall serve for a term of three years and one shall serve for a term of two years. Thereafter members that are appointed by the Council shall serve for three year terms. The Board of Education of the City School District shall appoint one member to serve for a term of one year. Thereafter the Board of Education's appointment shall be for a term of three years. If the Board of Education shall fail to make any such appointment within thirty days after the happening of a vacancy, the City Council shall fill the vacancy by appointment. Civil Service Commissioners shall serve without pay.

(A) No person shall be appointed as a Civil Service Commissioner who is not a resident of the City or who holds any public office or public employment other than a member of the organized militia or a teacher in the public schools or in an institution of higher education and learning. The Council shall not appoint any person as a Civil Service Commissioner who is a member of or affiliated with the same political party as another person appointed by the Council, to such Commission and then serving, not counting persons appointed by reason of the failure of the Board of Education to appoint.

(B) Any member of the Civil Service Commission shall be deemed to have resigned who at any time ceases to possess the qualifications to hold office, or who is absent continuously from the City, or from meetings of the Civil Service Commission for as long as six months. The body having to appoint the successor of any Civil Service Commissioner may by a vote of the members thereof at any time vacate the appointment of such member and may fill the vacancy by appointing a successor.

(C) The Civil Service Commission shall meet at least five times each year, at times and places appointed by it, and not more than ninety days shall elapse between any two meetings. Two members shall be a quorum to do business. The Commission shall choose its own chairman and vice-chairman, but no Commissioner shall hold either such office for more than three years in any period of five consecutive years. Every action of the Commission, except adjournment in the absence of a quorum, shall require the concurrence of two members, and shall be entered in an official record. The Civil Service Commission shall adopt rules of order for its own meetings as it may deem necessary.

(D) The Civil Service Commission shall appoint and may remove the Director of Human Resources Civil Service, who shall be the administrative officer of the Department of Human Resources Civil Service and the personnel officer of the City. Before his or her appointment, his or her qualification shall be ascertained by an examination conducted by a special examining committee, which examination shall relate to personnel selection and administration, and may be either competitive, or noncompetitive, as the Commission shall determine. The

Commission may by unanimous vote appoint or retain as Director of ~~Human Resources~~Civil Service a person residing in the City of Hamilton, Ohio. The Director of ~~Human Resources~~Civil Service shall not hold any other office or employment in the service of the City. He or she shall appoint and may lay off, suspend, or remove such examiners, clerks, and other employees as may be necessary in the work of the Department, except that the Commission shall appoint examiners for the Director of ~~Human Resources~~Civil Service.

(E) In accordance with this Charter, the Director of Law shall be the legal adviser and attorney for the Civil Service Commission and the Director of ~~Human Resources~~Civil Service and Personnel. However, if the Director of Law informs the Civil Service Commission that, in connection with any matter or proceeding before the Commission, he or she simultaneously has the conflicting duties of being both an advisor to and advocate before the Commission, then the Commission may retain the services of special legal counsel to advise it regarding that matter or during that proceeding.

### **10.02 Classification**

The administrative service of the City is hereby divided into the classified and unclassified service as follows:

(A) The unclassified service shall include all officers elected by the people; the City Manager; the members of the Civil Service Commission; all directors of departments other than the Director of ~~Human Resources~~Civil Service; members of advisory boards appointed by the City Manager; a secretary to the Mayor, a secretary to the City Manager, one secretary to each director of a department; and the City Clerk.

(B) The classified service shall comprise all positions not specifically included by this Charter in the unclassified service and shall be divided into a competitive class and a noncompetitive class.

(1) The competitive class shall include all positions and employments for which it is practicable to determine the merit and fitness of applicants by competitive tests.

(2) The noncompetitive class shall consist of all positions requiring peculiar and exceptional qualifications of a scientific, managerial, professional, or educational character.

### **10.03 Civil Service Rules**

The Civil Service Commission shall adopt and may amend, revise, or revoke rules upon the matter specified in this section, and other rules not inconsistent with this Charter, for promoting efficiency in the classified service of the City, for enforcing the merit system in the appointment, promotion, transfer, lay off, reinstatement, and suspension of City officers and employees in such service, and regulating the procedures of the department of Civil Service. The rules, among other things, shall provide:

(A) For the standardization and classification of all positions and employments in the classified service of the City. Such classification into groups and subdivisions shall be made on the basis of duties and responsibilities and so arranged as to promote the filling of the higher grades, so far as practicable through promotion.

(B) For open competitive tests to ascertain the relative fitness of all applicants for appointments in the competitive class.

(C) For public notice of the time and place of all competitive tests, at least ten days in advance thereof, by publication in the manner provided for the publication of ordinances and by posting a notice in a conspicuous place in the City Hall.

(D) For the creation of eligible lists upon which shall be entered the names of successful applicants in the order of their standing in the competitive tests and without reference to the time of the test.

(E) For the rejection of applicants or eligibles who do not satisfy requirements established by the Civil Service Commission as to job related skills, education, physical abilities or other bona fide occupational qualifications or who have attempted deception or fraud in connection with any test or their application therefor.

(F) For the certification to the appointing authority, from the appropriate eligible list, for filling a vacancy in the competitive class.

(G) (1) For temporary employment in the competitive class without a test because there is no eligibility list, but such temporary employment shall not continue for longer than sixty days nor shall it continue after administration of a competitive examination and the adoption of a suitable eligibility list;

(2) For temporary employment in the noncompetitive class without a test because there is no eligibility list, but such temporary employment shall not continue for longer than one hundred eighty (180) days or nor more than thirty (30) days after the adoption of a suitable eligibility list.

(H) For temporary employment without test for transitory or seasonal work, but such employment shall require the consent of the Civil Service Commission in each case, and shall not continue for more than one thousand forty (1,040) work hours in any twelve (12) consecutive month period unless renewed by the Civil Service Commission.

(I) For noncompetitive tests for appointments to positions designated by the Manager or the Civil Service Commission as requiring peculiar and exceptional qualifications of scientific, managerial, professional or educational character.

(J) For promotion based on competitive tests and upon records of efficiency, character, conduct and seniority.

(K) For transfer from a position to a similar position in the same class and grade.

(L) For immediate reinstatement at the head of the eligible list of persons who, without fault or delinquency on their part, are separated from the service or reduced in rank.

(M) For suspension for purpose of discipline, with or without pay, for not longer than ninety days, and for leave of absence with or without pay.

(N) For the appointment of unskilled laborers in the order of priority of application, and with such tests of physical fitness as the Civil Service Commission may prescribe.

(O) For investigating and keeping a record of the efficiency of officers and employees in the classified service, and for requiring markings and reports relative thereto from appointing authorities.

(P) For appeals and hearings before the Civil Service Commission, in accordance with general law, in cases of employees within the classified service entitled thereto under the provisions of Section 5.03(A) of this Charter.

(Q) For the administration by the Civil Service Commission and the Department of Human Resources~~Civil Service~~ of the general civil service laws of the state in respect of officers and employees of other governmental units, in cases so provided by general law.

(1) No civil service rule, nor any amendment, revision or revocation thereof shall be adopted:

(a) Unless the proposed text thereof shall have been printed in full and made available for public examination at least ten days prior to the public hearings provided for by this section;

(b) Unless such text shall have been reported to the City Council at a regular meeting thereof at least ten days prior to such hearing;

(c) Until after a public hearing thereon has been held by the Civil Service Commission, of which hearing ten days public notice shall have been given, and at which the City Manager, any director of a department, or any citizen shall be heard upon request;

(d) Until the written recommendation of the Director of Human Resources~~Civil—Service~~ thereon shall have been received; and such recommendation shall be publicly read in the hearing herein provided for.

(2) The civil service rules of the City of Hamilton at the time of the adoption of this section shall continue in effect, but shall be subject to amendment, revision, and revocation as provided for in paragraphs A and B of this section. Not later than fourteen months after the adoption of this section, the Civil Service Commission shall cause the civil service rules of the City to be published in book or pamphlet form, and shall cause corrected copies thereof to be kept available for public inspection.

(3) Neither the City Council nor the Civil Service Commission or any person in the administrative service shall have the power to modify or change in any manner the provisions of the laws of the State of Ohio now or hereafter in effect relating to the civil service and the Civil Service Commission insofar as such laws of the State of Ohio are applicable to members of the fire service. No fee or other assessment, however, shall be charged to applicants for examinations other than medical examinations for positions in the fire service.

(4) Neither the City Council nor the Civil Service Commission or any person in the administrative service shall have the power to modify or change in any manner the provisions of the laws of the State of Ohio now or hereafter in effect relating to the civil service and the Civil Service Commission insofar as such laws of the State of Ohio are applicable to members of the Division of Police. No fee or other assessment, however, shall be charged to applicants for examinations other than medical examinations for positions in the Division of Police.

(5) The rules of the Commission shall not be construed as prohibiting City participation in Federal or State programs the purpose and funding of which is intended to provide temporary and gainful occupation designed specifically for beneficiaries who are unemployed, underemployed or otherwise considered to be eligible. Participants in Federal or State programs referred to herein who are assigned to City work sites to qualify for benefits shall not be considered as being in the service of the City. The provisions of the rules of the Commission shall not apply to such participants, except as otherwise required by controlling Federal and State laws or guidelines.

#### **10.04 Application Register**

There shall be kept in the Department of ~~Human Resources~~~~Civil Service~~ an application register in which shall be entered the names and addresses and the order and date of application of all applicants for civil service test and the offices or employment which they seek. All applications shall be upon forms prescribed by the Department of ~~Human Resources~~~~Civil Service~~.

#### **10.05 Civil Service Tests**

Tests required by the Department of ~~Human Resources~~~~Civil Service~~ shall be practical, shall relate to matters which fairly measure the relative fitness of applicants to discharge the duties of the position which they seek, and shall take account of character, training and experience. No question in any test shall relate to political or religious opinions, affiliations or service, and no appointment, transfer, lay off, promotion, reduction, suspension or removal shall be affected or influenced by such opinions, affiliations or service. Notice of the time, place and scope of each test shall be given by publication and posting as specified in Section 10.03 of this Charter, and by mail or electronic communication at least ten days in advance, to each applicant upon the appropriate lists of the applicant register.

#### **10.06 Eligible Lists -- Register of Eligibles**

The lists of applicants eligible to appointment by reason of civil service tests, with their grades, shall be known as the register of eligibles and shall be open to the public inspection. The names of such eligibles shall be arranged in their respective lists in the order of their standing on test. The name of no person shall remain on the register of eligibles for more than one year without a new application and, if the civil service rules so require, a new test. Eligibles shall provide written notice to the Department of ~~Human Resources~~~~Civil Service~~ of his/her continued interest in appointment and updated contact information not less than every six (6) months within that one year period.

#### **10.07 Appointments**

When any position in the classified service is to be filled, the appointing authority shall notify the Director of ~~Human Resources~~~~Civil Service~~, who shall promptly certify to such appointing authority a list of eligibles for the class or grade to which such position belongs. The appointing authority shall appoint to such position one of the persons whose name is so certified.

When an entry-level position is to be filled from an eligible list which is established through the administration of an open, competitive civil service examination, the Director of ~~Human Resources~~~~Civil Service~~ shall first identify, without rounding, the top ten names on the eligible list or the top twenty-five per cent of the eligible list, whichever is greater and then certify to the appointing authority the names and addresses of those persons.. In the event that fewer than ten names are on the eligible list, the appointing authority may select any of the listed candidates, but is not so obligated. In the event multiple entry-level positions are to be filled, the next top five names or five percent, whichever is greater, of the eligible list shall be added to each subsequent and concurrent selection.

When no eligible list for a position exists, or when the eligible list has become exhausted and until a new list can be created, a name may be certified from the eligible list most nearly appropriate to the position to be filled.

A person on an entry-level eligibility list, who has previously been certified three or more times to the same appointing authority for the same or similar position(s), may be omitted from future certifications to such appointing authority upon the request of such appointing authority and the concurrence of the Civil Service Commission. However, any certification of a person on an entry-level eligibility list for the purpose of making a temporary appointment shall not be counted as one of the three certifications.

#### **10.10 Service Register**

There shall be maintained in the Department of ~~Human Resources~~~~Civil Service~~ a list of all persons holding appointive offices or positions under the City government, showing in connection with each name the position held, the salary or wages paid, the date and character of appointment and every subsequent change in status. Such list shall be known as the service register and every appointing officer or authority shall promptly transmit to the Department of ~~Human Resources~~~~Civil Service~~ all information requested for the establishment and maintenance of such register.

#### **10.11 Certification of Payrolls**

The Treasurer shall not pay, nor shall the Director of Finance issue a voucher for the payment of, any salary or compensation to any person holding, or claiming to hold, an appointive office or a position in the service of the City unless the payroll or account of such salary or compensation shall bear the certificate of the Director of ~~Human Resources~~~~Civil Service~~ that the persons named therein have been appointed or employed and are performing service in accordance with the provisions of this Charter and the civil service rules established thereunder, that their names appear upon the service register for the time for which such salary or compensation is claimed and that the salary or compensation is at the rate indicated on such register. If the Director of Finance shall willingly or negligently approve any payment or issue any warrant in violation of this section, he and the sureties on his bond shall be liable to the City for the amount thereof and action may be brought therefor by any taxpayer for the use of the City without making previous request to the City to sue.

#### **10.20 Violations and Penalties**

It shall be the duty of the Civil Service Commission to supervise the execution of, and of the Director of ~~Human Resources~~~~Civil Service~~ to administer, the foregoing civil service provisions of this Charter and the rules made thereunder, and it shall be the duty of all persons in the service of the City to comply with such rules and to aid in their enforcement. Any person who, by himself or herself or with others, willfully or corruptly deceives or obstructs any person in respect to his right to take part in any test for admission to the classified service of the City; or willfully or corruptly marks, grades or reports upon the test or proper standing of any person tested for appointment in the classified service, or aids in so doing; or willfully or corruptly makes any false representation as to the results of such tests or concerning persons so tested; or furnishes special or secret information for the purpose of either improving or injuring the prospects or chances of a person tested or to be tested, or to be appointed, employed, or promoted; or impersonates any person or permits or aids in any impersonation in connection with any test application, registration, or appointment, or request to be tested or registered; or who makes known or assists in making known to any applicant for test, in advance thereof, any question to be asked on such test; or willfully or through culpable negligence violates any of the civil service provisions of this Charter

or any of the rules made in pursuance thereof, shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by fine or not less than fifty dollars nor more than one thousand dollars or by imprisonment for a term not to exceed six months. If any such person be an applicant for competitive test, he or she shall be excluded therefrom; if he or she be an eligible, his or her name shall be removed from the register of eligibles; and if he or she be an officer or employee of the City, he or she shall immediately forfeit his or her office or employment.

**EMERGENCY ORDINANCE NO. \_\_\_\_\_**

**AN EMERGENCY ORDINANCE TO PROVIDE FOR THE SUBMISSION TO THE ELECTORS OF THE CITY OF HAMILTON, OHIO, AT THE GENERAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2020, A PROPOSED AMENDMENT TO THE CITY CHARTER BY AMENDING THE PROVISIONS OF ARTICLE X, DEPARTMENT OF CIVIL SERVICE, SECTIONS 10.01 – 10.07, SECTIONS 10.10, 10.11, AND 10.20 AND ANY OTHER REFERENCES TO THE DEPARTMENT OF CIVIL SERVICE AND PERSONNEL OR DIRECTOR OF CIVIL SERVICE AND PERSONNEL IN THS CHARTER, BY RENAMING THE DEPARTMENT OF CIVIL SERVICE AND PERSONNEL TO THE DEPARTMENT OF HUMAN RESOURCES, AS SET FORTH IN FULL IN THIS EMERGENCY ORDINANCE.**

WHEREAS, the existing Charter of the City of Hamilton, Ohio has been reviewed by the Charter Review Commission and the Council of the City of Hamilton, Ohio, and Council has recommended that Article X of the Charter be amended; and

WHEREAS, based upon that review The Charter Review Commission has recommended that City Council pass an ordinance to submit a proposed amendment to the Charter to the electors, which proposed amendment will amend Article X, Department of Civil Service, Sections 10.01 – 10.07, Sections 10.10, 10.11, and 10.20 and any other references to the Department of Civil Service and Personnel or Director of Civil Service and Personnel in the Charter, by renaming the Department of Civil Service and Personnel to the Department of Human Resources; and

WHEREAS, Article X of the current Charter of the City of Hamilton, Ohio provides as follows:

**ARTICLE X  
DEPARTMENT OF CIVIL SERVICE**

**10.01 Civil Service Commission**

There shall be a department of Civil Service governed by a Civil Service Commission of three members. The City Council shall appoint two Commissioners by a vote of at least five members of the Council. Such appointments shall be made to commence on January 1, 2011. One of such members shall serve for a term of three years and one shall serve for a term of two years. Thereafter members that are appointed by the Council shall serve for three year terms. The Board of Education of the City School District shall appoint one member to serve for a term of one year. Thereafter the Board of Education's appointment shall be for a term of three years. If the Board of Education shall fail to make any such appointment within thirty days after the happening of a vacancy, the City Council shall fill the vacancy by appointment. Civil Service Commissioners shall serve without pay.

(A) No person shall be appointed as a Civil Service Commissioner who is not a resident of the City or who holds any public office or public employment other than a member of the organized militia or a teacher in the public schools or in an institution of higher education and learning. The Council shall not appoint any person as a Civil Service Commissioner who is a member of or affiliated with the same political party as another person appointed by the Council, to such Commission and then serving, not counting persons appointed by reason of the failure of the Board of Education to appoint.

(B) Any member of the Civil Service Commission shall be deemed to have resigned who at any time ceases to possess the qualifications to hold office, or who is absent continuously from the City, or from meetings of the Civil Service Commission for as long as six months. The body having to appoint the successor of any Civil Service Commissioner may by a vote of the members thereof at any time vacate the appointment of such member and may fill the vacancy by appointing a successor.

**Emergency Ordinance No. \_\_\_\_\_ (cont'd)**

(C) The Civil Service Commission shall meet at least five times each year, at times and places appointed by it, and not more than ninety days shall elapse between any two meetings. Two members shall be a quorum to do business. The Commission shall choose its own chairman and vice-chairman, but no Commissioner shall hold either such office for more than three years in any period of five consecutive years. Every action of the Commission, except adjournment in the absence of a quorum, shall require the concurrence of two members, and shall be entered in an official record. The Civil Service Commission shall adopt rules of order for its own meetings as it may deem necessary.

(D) The Civil Service Commission shall appoint and may remove the Director of Civil Service, who shall be the administrative officer of the Department of Civil Service and the personnel officer of the City. Before his or her appointment, his or her qualification shall be ascertained by an examination conducted by a special examining committee, which examination shall relate to personnel selection and administration, and may be either competitive, or noncompetitive, as the Commission shall determine. The Commission may by unanimous vote appoint or retain as Director of Civil Service a person residing in the City of Hamilton, Ohio. The Director of Civil Service shall not hold any other office or employment in the service of the City. He or she shall appoint and may lay off, suspend, or remove such examiners, clerks, and other employees as may be necessary in the work of the Department, except that the Commission shall appoint examiners for the Director of Civil Service.

(E) In accordance with this Charter, the Director of Law shall be the legal adviser and attorney for the Civil Service Commission and the Director of Civil Service and Personnel. However, if the Director of Law informs the Civil Service Commission that, in connection with any matter or proceeding before the Commission, he or she simultaneously has the conflicting duties of being both an advisor to and advocate before the Commission, then the Commission may retain the services of special legal counsel to advise it regarding that matter or during that proceeding.

**10.02 Classification**

The administrative service of the City is hereby divided into the classified and unclassified service as follows:

(A) The unclassified service shall include all officers elected by the people; the City Manager; the members of the Civil Service Commission; all directors of departments other than the Director of Civil Service; members of advisory boards appointed by the City Manager; a secretary to the Mayor, a secretary to the City Manager, one secretary to each director of a department; and the City Clerk.

(B) The classified service shall comprise all positions not specifically included by this Charter in the unclassified service and shall be divided into a competitive class and a noncompetitive class.

(1) The competitive class shall include all positions and employments for which it is practicable to determine the merit and fitness of applicants by competitive tests.

(2) The noncompetitive class shall consist of all positions requiring peculiar and exceptional qualifications of a scientific, managerial, professional, or educational character.

### 10.03 Civil Service Rules

The Civil Service Commission shall adopt and may amend, revise, or revoke rules upon the matter specified in this section, and other rules not inconsistent with this Charter, for promoting efficiency in the classified service of the City, for enforcing the merit system in the appointment, promotion, transfer, lay off, reinstatement, and suspension of City officers and employees in such service, and regulating the procedures of the department of Civil Service. The rules, among other things, shall provide:

(A) For the standardization and classification of all positions and employments in the classified service of the City. Such classification into groups and subdivisions shall be made on the basis of duties and responsibilities and so arranged as to promote the filling of the higher grades, so far as practicable through promotion.

(B) For open competitive tests to ascertain the relative fitness of all applicants for appointments in the competitive class.

(C) For public notice of the time and place of all competitive tests, at least ten days in advance thereof, by publication in the manner provided for the publication of ordinances and by posting a notice in a conspicuous place in the City Hall.

(D) For the creation of eligible lists upon which shall be entered the names of successful applicants in the order of their standing in the competitive tests and without reference to the time of the test.

(E) For the rejection of applicants or eligibles who do not satisfy requirements established by the Civil Service Commission as to job related skills, education, physical abilities or other bona fide occupational qualifications or who have attempted deception or fraud in connection with any test or their application therefor.

(F) For the certification to the appointing authority, from the appropriate eligible list, for filling a vacancy in the competitive class.

(G) (1) For temporary employment in the competitive class without a test because there is no eligibility list, but such temporary employment shall not continue for longer than sixty days nor shall it continue after administration of a competitive examination and the adoption of a suitable eligibility list;

(2) For temporary employment in the noncompetitive class without a test because there is no eligibility list, but such temporary employment shall not continue for longer than one hundred eighty (180) days or nor more than thirty (30) days after the adoption of a suitable eligibility list.

(H) For temporary employment without test for transitory or seasonal work, but such employment shall require the consent of the Civil Service Commission in each case, and shall not continue for more than one thousand forty (1,040) work hours in any twelve (12) consecutive month period unless renewed by the Civil Service Commission.

(I) For noncompetitive tests for appointments to positions designated by the Manager or the Civil Service Commission as requiring peculiar and exceptional qualifications of scientific, managerial, professional or educational character.

(J) For promotion based on competitive tests and upon records of efficiency, character, conduct and seniority.

(K) For transfer from a position to a similar position in the same class and grade.

**Emergency Ordinance No. \_\_\_\_\_ (cont'd)**

(L) For immediate reinstatement at the head of the eligible list of persons who, without fault or delinquency on their part, are separated from the service or reduced in rank.

(M) For suspension for purpose of discipline, with or without pay, for not longer than ninety days, and for leave of absence with or without pay.

(N) For the appointment of unskilled laborers in the order of priority of application, and with such tests of physical fitness as the Civil Service Commission may prescribe.

(O) For investigating and keeping a record of the efficiency of officers and employees in the classified service, and for requiring markings and reports relative thereto from appointing authorities.

(P) For appeals and hearings before the Civil Service Commission, in accordance with general law, in cases of employees within the classified service entitled thereto under the provisions of Section 5.03(A) of this Charter.

(Q) For the administration by the Civil Service Commission and the Department of Civil Service of the general civil service laws of the state in respect of officers and employees of other governmental units, in cases so provided by general law.

(1) No civil service rule, nor any amendment, revision or revocation thereof shall be adopted:

(a) Unless the proposed text thereof shall have been printed in full and made available for public examination at least ten days prior to the public hearings provided for by this section;

(b) Unless such text shall have been reported to the City Council at a regular meeting thereof at least ten days prior to such hearing;

(c) Until after a public hearing thereon has been held by the Civil Service Commission, of which hearing ten days public notice shall have been given, and at which the City Manager, any director of a department, or any citizen shall be heard upon request;

(d) Until the written recommendation of the Director of Civil Service thereon shall have been received; and such recommendation shall be publicly read in the hearing herein provided for.

(2) The civil service rules of the City of Hamilton at the time of the adoption of this section shall continue in effect, but shall be subject to amendment, revision, and revocation as provided for in paragraphs A and B of this section. Not later than fourteen months after the adoption of this section, the Civil Service Commission shall cause the civil service rules of the City to be published in book or pamphlet form, and shall cause corrected copies thereof to be kept available for public inspection.

(3) Neither the City Council nor the Civil Service Commission or any person in the administrative service shall have the power to modify or change in any manner the provisions of the laws of the State of Ohio now or hereafter in effect relating to the civil service and the Civil Service Commission insofar as such laws of the State of Ohio are applicable to members of the fire service. No fee or other assessment, however, shall be charged to applicants for examinations other than medical examinations for positions in the fire service.

(4) Neither the City Council nor the Civil Service Commission or any person in the administrative service shall have the power to modify or change in any manner the provisions of the laws of the State of Ohio now or hereafter in effect relating to the civil service and the Civil Service Commission insofar as such laws of the State of Ohio are applicable to members of the Division of Police. No fee or other

**Emergency Ordinance No. \_\_\_\_\_ (cont'd)**

assessment, however, shall be charged to applicants for examinations other than medical examinations for positions in the Division of Police.

(5) The rules of the Commission shall not be construed as prohibiting City participation in Federal or State programs the purpose and funding of which is intended to provide temporary and gainful occupation designed specifically for beneficiaries who are unemployed, underemployed or otherwise considered to be eligible. Participants in Federal or State programs referred to herein who are assigned to City work sites to qualify for benefits shall not be considered as being in the service of the City. The provisions of the rules of the Commission shall not apply to such participants, except as otherwise required by controlling Federal and State laws or guidelines.

**10.04 Application Register**

There shall be kept in the Department of Civil Service an application register in which shall be entered the names and addresses and the order and date of application of all applicants for civil service test and the offices or employment which they seek. All applications shall be upon forms prescribed by the Department of Civil Service.

**10.05 Civil Service Tests**

Tests required by the Department of Civil Service shall be practical, shall relate to matters which fairly measure the relative fitness of applicants to discharge the duties of the position which they seek, and shall take account of character, training and experience. No question in any test shall relate to political or religious opinions, affiliations or service, and no appointment, transfer, lay off, promotion, reduction, suspension or removal shall be affected or influenced by such opinions, affiliations or service. Notice of the time, place and scope of each test shall be given by publication and posting as specified in Section 10.03 of this Charter, and by mail or electronic communication at least ten days in advance, to each application upon the appropriate lists of the applicant register.

**10.06 Eligible Lists -- Register of Eligibles**

The lists of applicants eligible to appointment by reason of civil service tests, with their grades, shall be known as the register of eligibles and shall be open to the public inspection. The names of such eligibles shall be arranged in their respective lists in the order of their standing on test. The name of no person shall remain on the register of eligibles for more than one year without a new application and, if the civil service rules so require, a new test. Eligibles shall provide written notice to the Department of Civil Service of his/her continued interest in appointment and updated contact information not less than every six (6) months within that one year period.

**10.07 Appointments**

When any position in the classified service is to be filled, the appointing authority shall notify the Director of Civil Service, who shall promptly certify to such appointing authority a list of eligibles for the class or grade to which such position belongs. The appointing authority shall appoint to such position one of the persons whose name is so certified.

**Emergency Ordinance No. \_\_\_\_\_ (cont'd)**

When an entry-level position is to be filled from an eligible list which is established through the administration of an open, competitive civil service examination, the Director of Civil Service shall first identify, without rounding, the top ten names on the eligible list or the top twenty-five per cent of the eligible list, whichever is greater and then certify to the appointing authority the names and addresses of those persons.. In the event that fewer than ten names are on the eligible list, the appointing authority may select any of the listed candidates, but is not so obligated. In the event multiple entry-level positions are to be filled, the next top five names or five percent, whichever is greater, of the eligible list shall be added to each subsequent and concurrent selection.

When no eligible list for a position exists, or when the eligible list has become exhausted and until a new list can be created, a name may be certified from the eligible list most nearly appropriate to the position to be filled.

A person on an entry-level eligibility list, who has previously been certified three or more times to the same appointing authority for the same or similar position(s), may be omitted from future certifications to such appointing authority upon the request of such appointing authority and the concurrence of the Civil Service Commission. However, any certification of a person on an entry-level eligibility list for the purpose of making a temporary appointment shall not be counted as one of the three certifications.

**10.10 Service Register**

There shall be maintained in the Department of Civil Service a list of all persons holding appointive offices or positions under the City government, showing in connection with each name the position held, the salary or wages paid, the date and character of appointment and every subsequent change in status. Such list shall be known as the service register and every appointing officer or authority shall promptly transmit to the Department of Civil Service all information requested for the establishment and maintenance of such register.

**10.11 Certification of Payrolls**

The Treasurer shall not pay, nor shall the Director of Finance issue a voucher for the payment of, any salary or compensation to any person holding, or claiming to hold, an appointive office or a position in the service of the City unless the payroll or account of such salary or compensation shall bear the certificate of the Director of Civil Service that the persons named therein have been appointed or employed and are performing service in accordance with the provisions of this Charter and the civil service rules established thereunder, that their names appear upon the service register for the time for which such salary or compensation is claimed and that the salary or compensation is at the rate indicated on such register. If the Director of Finance shall willingly or negligently approve any payment or issue any warrant in violation of this section, he and the sureties on his bond shall be liable to the City for the amount thereof and action may be brought therefor by any taxpayer for the use of the City without making previous request to the City to sue.

**10.20 Violations and Penalties**

It shall be the duty of the Civil Service Commission to supervise the execution of, and of the Director of Civil Service to administer, the foregoing civil service provisions of this Charter and the rules made thereunder, and it shall be the duty of all persons in the service of the City to comply with such rules and to aid in their enforcement. Any person who, by himself or herself or with others, willfully or corruptly deceives or obstructs any person in respect to his right to take part in any test for admission to the classified service of the City; or willfully or corruptly marks, grades or reports upon the test or proper standing of any person tested for appointment in the classified service, or aids in so doing; or willfully or corruptly makes any false representation as to the results of such tests or concerning persons so tested; or furnishes special or secret information for the purpose of either improving or injuring the prospects or chances of a person tested or to be tested, or to be appointed, employed, or promoted; or impersonates any person or permits or aids in any impersonation in connection with any test application, registration, or appointment, or request to be tested or registered; or who makes known or assists in making known to any applicant for test, in advance thereof, any question to be asked on such test; or willfully or through culpable negligence violates any of the civil service provisions of this Charter or any of the rules made in pursuance thereof, shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by fine or not less than fifty dollars nor more than one thousand dollars or by imprisonment for a term not to exceed six months. If any such person be an applicant for competitive test, he or she shall be excluded therefrom; if he or she be an eligible, his or her name shall be removed from the register of eligibles; and if he or she be an officer or employee of the City, he or she shall immediately forfeit his or her office or employment.

; and

WHEREAS, this Council has recommended that Article X of the Hamilton Charter, which governs the Department of Civil Service and Personnel, be amended to rename the Department of Civil Service and Personnel to the Department of Human Resources. If approved, this change will modify all references to the Department of Civil Service throughout Article X and the rest of the City Charter to reflect the Department of Human Resources. The renaming illuminates the fact that the department is interested in the full employment experience from recruitment to retirement. Currently the title, Civil Service and Personnel elucidates that there is only functionality; that it does not comprise the additional components that aid the organization and its employees in continuing education growing the business and making future investments in new hires; and

WHEREAS, based upon the recommendation of the Charter Review Commission, at least two-thirds of this Council, as required by Section 9 of Article XVIII of the Ohio Constitution, desires to submit an amendment to the Charter of the City of Hamilton, Ohio to the electors of the City at the next general election to be held on Tuesday, November 3, 2020; and

WHEREAS, the subject matter herein constitutes an emergency in that it provides for the immediate preservation of the public peace, property, safety and welfare of the community in that such emergency measure shall permit the election authorities and other officials named in this ordinance to take the necessary actions and to make preparation for the submission of the amendment to the electors of the City at the general election to be held on Tuesday, November 3, 2020;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hamilton, Ohio:

**Emergency Ordinance No. \_\_\_\_\_ (cont'd)**

SECTION I: That the proposed amendment to Article X, Sections 10.01 – 10.07, Sections 10.10, 10.11, and 10.20, of the Charter of the City of Hamilton, Ohio, which provides the structure of the Department of Civil Service, shall be submitted to the electors of the City of Hamilton, Ohio for adoption or rejection at the next general election to be held on Tuesday, November 3, 2020. A vote of the majority of the electors of the City of Hamilton, Ohio, voting on the proposed amendment, is required for adoption of said amendment. The proposed amendment is to amend Article X, Department of Civil Service, Sections 10.01 – 10.07, Sections 10.10, 10.11, and 10.20 and any other references to the Department of Civil Service and Personnel or Director of Civil Service and Personnel in the Charter, to rename the Department of Civil Service and Personnel to the Department of Human Resources of the Charter of the City of Hamilton, Ohio, with the proposed Article X, Sections 10.01 – 10.07, Sections 10.10, 10.11, and 10.20 to read as follows:

**ARTICLE X**

**DEPARTMENT OF HUMAN RESOURCES**

**10.01 Civil Service Commission**

There shall be a department of Human Resources governed by a Civil Service Commission of three members. The City Council shall appoint two Commissioners by a vote of at least five members of the Council. Such appointments shall be made to commence on January 1, 2011. One of such members shall serve for a term of three years and one shall serve for a term of two years. Thereafter members that are appointed by the Council shall serve for three year terms. The Board of Education of the City School District shall appoint one member to serve for a term of one year. Thereafter the Board of Education's appointment shall be for a term of three years. If the Board of Education shall fail to make any such appointment within thirty days after the happening of a vacancy, the City Council shall fill the vacancy by appointment. Civil Service Commissioners shall serve without pay.

(A) No person shall be appointed as a Civil Service Commissioner who is not a resident of the City or who holds any public office or public employment other than a member of the organized militia or a teacher in the public schools or in an institution of higher education and learning. The Council shall not appoint any person as a Civil Service Commissioner who is a member of or affiliated with the same political party as another person appointed by the Council, to such Commission and then serving, not counting persons appointed by reason of the failure of the Board of Education to appoint.

(B) Any member of the Civil Service Commission shall be deemed to have resigned who at any time ceases to possess the qualifications to hold office, or who is absent continuously from the City, or from meetings of the Civil Service Commission for as long as six months. The body having to appoint the successor of any Civil Service Commissioner may by a vote of the members thereof at any time vacate the appointment of such member and may fill the vacancy by appointing a successor.

(C) The Civil Service Commission shall meet at least five times each year, at times and places appointed by it, and not more than ninety days shall elapse between any two meetings. Two members shall be a quorum to do business. The Commission shall choose its own chairman and vice-chairman, but no Commissioner shall hold either such office for more than three years in any period of five consecutive years. Every action of the

**Emergency Ordinance No. \_\_\_\_\_ (cont'd)**

Commission, except adjournment in the absence of a quorum, shall require the concurrence of two members, and shall be entered in an official record. The Civil Service Commission shall adopt rules of order for its own meetings as it may deem necessary.

(D) The Civil Service Commission shall appoint and may remove the Director of Human Resources, who shall be the administrative officer of the Department of Human Resources and the personnel officer of the City. Before his or her appointment, his or her qualification shall be ascertained by an examination conducted by a special examining committee, which examination shall relate to personnel selection and administration, and may be either competitive, or noncompetitive, as the Commission shall determine. The Commission may by unanimous vote appoint or retain as Director of Human Resources a person residing in the City of Hamilton, Ohio. The Director of Human Resources shall not hold any other office or employment in the service of the City. He or she shall appoint and may lay off, suspend, or remove such examiners, clerks, and other employees as may be necessary in the work of the Department, except that the Commission shall appoint examiners for the Director of Human Resources.

(E) In accordance with this Charter, the Director of Law shall be the legal adviser and attorney for the Civil Service Commission and the Director of Human Resources. However, if the Director of Law informs the Civil Service Commission that, in connection with any matter or proceeding before the Commission, he or she simultaneously has the conflicting duties of being both an advisor to and advocate before the Commission, then the Commission may retain the services of special legal counsel to advise it regarding that matter or during that proceeding.

**10.02 Classification**

The administrative service of the City is hereby divided into the classified and unclassified service as follows:

(A) The unclassified service shall include all officers elected by the people; the City Manager; the members of the Civil Service Commission; all directors of departments other than the Director of Human Resources; members of advisory boards appointed by the City Manager; a secretary to the Mayor, a secretary to the City Manager, one secretary to each director of a department; and the City Clerk.

(B) The classified service shall comprise all positions not specifically included by this Charter in the unclassified service and shall be divided into a competitive class and a noncompetitive class.

(1) The competitive class shall include all positions and employments for which it is practicable to determine the merit and fitness of applicants by competitive tests.

(2) The noncompetitive class shall consist of all positions requiring peculiar and exceptional qualifications of a scientific, managerial, professional, or educational character.

**10.03 Civil Service Rules**

The Civil Service Commission shall adopt and may amend, revise, or revoke rules upon the matter specified in this section, and other rules not inconsistent with this Charter, for promoting efficiency in the classified service of the City, for enforcing the merit system in the

**Emergency Ordinance No. \_\_\_\_\_ (cont'd)**

appointment, promotion, transfer, lay off, reinstatement, and suspension of City officers and employees in such service, and regulating the procedures of the department of Civil Service. The rules, among other things, shall provide:

(A) For the standardization and classification of all positions and employments in the classified service of the City. Such classification into groups and subdivisions shall be made on the basis of duties and responsibilities and so arranged as to promote the filling of the higher grades, so far as practicable through promotion.

(B) For open competitive tests to ascertain the relative fitness of all applicants for appointments in the competitive class.

(C) For public notice of the time and place of all competitive tests, at least ten days in advance thereof, by publication in the manner provided for the publication of ordinances and by posting a notice in a conspicuous place in the City Hall.

(D) For the creation of eligible lists upon which shall be entered the names of successful applicants in the order of their standing in the competitive tests and without reference to the time of the test.

(E) For the rejection of applicants or eligibles who do not satisfy requirements established by the Civil Service Commission as to job related skills, education, physical abilities or other bona fide occupational qualifications or who have attempted deception or fraud in connection with any test or their application therefor.

(F) For the certification to the appointing authority, from the appropriate eligible list, for filling a vacancy in the competitive class.

(G) (1) For temporary employment in the competitive class without a test because there is no eligibility list, but such temporary employment shall not continue for longer than sixty days nor shall it continue after administration of a competitive examination and the adoption of a suitable eligibility list;

(2) For temporary employment in the noncompetitive class without a test because there is no eligibility list, but such temporary employment shall not continue for longer than one hundred eighty (180) days or nor more than thirty (30) days after the adoption of a suitable eligibility list.

(H) For temporary employment without test for transitory or seasonal work, but such employment shall require the consent of the Civil Service Commission in each case, and shall not continue for more than one thousand forty (1,040) work hours in any twelve (12) consecutive month period unless renewed by the Civil Service Commission.

(I) For noncompetitive tests for appointments to positions designated by the Manager or the Civil Service Commission as requiring peculiar and exceptional qualifications of scientific, managerial, professional or educational character.

(J) For promotion based on competitive tests and upon records of efficiency, character, conduct and seniority.

(K) For transfer from a position to a similar position in the same class and grade.

(L) For immediate reinstatement at the head of the eligible list of persons who, without fault or delinquency on their part, are separated from the service or reduced in rank.

(M) For suspension for purpose of discipline, with or without pay, for not longer than ninety days, and for leave of absence with or without pay.

(N) For the appointment of unskilled laborers in the order of priority of application, and with such tests of physical fitness as the Civil

**Emergency Ordinance No. \_\_\_\_\_ (cont'd)**

Service Commission may prescribe.

(O) For investigating and keeping a record of the efficiency of officers and employees in the classified service, and for requiring markings and reports relative thereto from appointing authorities.

(P) For appeals and hearings before the Civil Service Commission, in accordance with general law, in cases of employees within the classified service entitled thereto under the provisions of Section 5.03(A) of this Charter.

(Q) For the administration by the Civil Service Commission and the Department of Human Resources of the general civil service laws of the state in respect of officers and employees of other governmental units, in cases so provided by general law.

(1) No civil service rule, nor any amendment, revision or revocation thereof shall be adopted:

(a) Unless the proposed text thereof shall have been printed in full and made available for public examination at least ten days prior to the public hearings provided for by this section;

(b) Unless such text shall have been reported to the City Council at a regular meeting thereof at least ten days prior to such hearing;

(c) Until after a public hearing thereon has been held by the Civil Service Commission, of which hearing ten days public notice shall have been given, and at which the City Manager, any director of a department, or any citizen shall be heard upon request;

(d) Until the written recommendation of the Director of Human Resources thereon shall have been received; and such recommendation shall be publicly read in the hearing herein provided for.

(2) The civil service rules of the City of Hamilton at the time of the adoption of this section shall continue in effect, but shall be subject to amendment, revision, and revocation as provided for in paragraphs A and B of this section. Not later than fourteen months after the adoption of this section, the Civil Service Commission shall cause the civil service rules of the City to be published in book or pamphlet form, and shall cause corrected copies thereof to be kept available for public inspection.

(3) Neither the City Council nor the Civil Service Commission or any person in the administrative service shall have the power to modify or change in any manner the provisions of the laws of the State of Ohio now or hereafter in effect relating to the civil service and the Civil Service Commission insofar as such laws of the State of Ohio are applicable to members of the fire service. No fee or other assessment, however, shall be charged to applicants for examinations other than medical examinations for positions in the fire service.

(4) Neither the City Council nor the Civil Service Commission or any person in the administrative service shall have the power to modify or change in any manner the provisions of the laws of the State of Ohio now or hereafter in effect relating to the civil service and the Civil Service Commission insofar as such laws of the State of Ohio are applicable to members of the Division of Police. No fee or other assessment, however, shall be charged to applicants for examinations other than medical examinations for positions in the Division of Police.

(5) The rules of the Commission shall not be construed as prohibiting City participation in Federal or State programs the purpose and funding of which is intended to provide temporary and gainful occupation designed specifically for beneficiaries who are unemployed, underemployed or otherwise considered to be eligible. Participants in Federal or State programs referred to herein who are assigned to City

**Emergency Ordinance No. \_\_\_\_\_ (cont'd)**

work sites to qualify for benefits shall not be considered as being in the service of the City. The provisions of the rules of the Commission shall not apply to such participants, except as otherwise required by controlling Federal and State laws or guidelines.

**10.04 Application Register**

There shall be kept in the Department of Human Resources an application register in which shall be entered the names and addresses and the order and date of application of all applicants for civil service test and the offices or employment which they seek. All applications shall be upon forms prescribed by the Department of Human Resources.

**10.05 Civil Service Tests**

Tests required by the Department of Human Resources shall be practical, shall relate to matters which fairly measure the relative fitness of applicants to discharge the duties of the position which they seek, and shall take account of character, training and experience. No question in any test shall relate to political or religious opinions, affiliations or service, and no appointment, transfer, lay off, promotion, reduction, suspension or removal shall be affected or influenced by such opinions, affiliations or service. Notice of the time, place and scope of each test shall be given by publication and posting as specified in Section 10.03 of this Charter, and by mail or electronic communication at least ten days in advance, to each application upon the appropriate lists of the applicant register.

**10.06 Eligible Lists -- Register of Eligibles**

The lists of applicants eligible to appointment by reason of civil service tests, with their grades, shall be known as the register of eligibles and shall be open to the public inspection. The names of such eligibles shall be arranged in their respective lists in the order of their standing on test. The name of no person shall remain on the register of eligibles for more than one year without a new application and, if the civil service rules so require, a new test. Eligibles shall provide written notice to the Department of Human Resources of his/her continued interest in appointment and updated contact information not less than every six (6) months within that one year period.

**10.07 Appointments**

When any position in the classified service is to be filled, the appointing authority shall notify the Director of Human Resources, who shall promptly certify to such appointing authority a list of eligibles for the class or grade to which such position belongs. The appointing authority shall appoint to such position one of the persons whose name is so certified.

When an entry-level position is to be filled from an eligible list which is established through the administration of an open, competitive civil service examination, the Director of Human Resources shall first identify, without rounding, the top ten names on the eligible list or the top twenty-five per cent of the eligible list, whichever is greater and then certify to the appointing authority the names and addresses of those persons. In the event that fewer than ten names are on the eligible list,

**Emergency Ordinance No. \_\_\_\_\_ (cont'd)**

the appointing authority may select any of the listed candidates, but is not so obligated. In the event multiple entry-level positions are to be filled, the next top five names or five percent, whichever is greater, of the eligible list shall be added to each subsequent and concurrent selection.

When no eligible list for a position exists, or when the eligible list has become exhausted and until a new list can be created, a name may be certified from the eligible list most nearly appropriate to the position to be filled.

A person on an entry-level eligibility list, who has previously been certified three or more times to the same appointing authority for the same or similar position(s), may be omitted from future certifications to such appointing authority upon the request of such appointing authority and the concurrence of the Civil Service Commission. However, any certification of a person on an entry-level eligibility list for the purpose of making a temporary appointment shall not be counted as one of the three certifications.

**10.10 Service Register**

There shall be maintained in the Department of Human Resources a list of all persons holding appointive offices or positions under the City government, showing in connection with each name the position held, the salary or wages paid, the date and character of appointment and every subsequent change in status. Such list shall be known as the service register and every appointing officer or authority shall promptly transmit to the Department of Human Resources all information requested for the establishment and maintenance of such register.

**10.11 Certification of Payrolls**

The Treasurer shall not pay, nor shall the Director of Finance issue a voucher for the payment of, any salary or compensation to any person holding, or claiming to hold, an appointive office or a position in the service of the City unless the payroll or account of such salary or compensation shall bear the certificate of the Director of Human Resources that the persons named therein have been appointed or employed and are performing service in accordance with the provisions of this Charter and the civil service rules established thereunder, that their names appear upon the service register for the time for which such salary or compensation is claimed and that the salary or compensation is at the rate indicated on such register. If the Director of Finance shall willingly or negligently approve any payment or issue any warrant in violation of this section, he and the sureties on his bond shall be liable to the City for the amount thereof and action may be brought therefor by any taxpayer for the use of the City without making previous request to the City to sue.

**10.20 Violations and Penalties**

It shall be the duty of the Civil Service Commission to supervise the execution of, and of the Director of Human Resources to administer, the foregoing civil service provisions of this Charter and the rules made thereunder, and it shall be the duty of all persons in the service of the City to comply with such rules and to aid in their enforcement. Any person who, by himself or herself or with others, willfully or corruptly deceives or obstructs any person in respect to his right to take part in any test for admission to the classified service of the City; or willfully or corruptly marks, grades or reports upon the test or proper standing of any person tested for appointment in the classified service, or aids in so doing; or willfully or corruptly makes any false representation as to the results of such tests or concerning persons so tested; or furnishes special or secret information for the purpose of either improving or injuring the prospects or chances of a person tested or to be tested, or to be appointed, employed, or promoted; or impersonates any person or permits or aids in any impersonation in connection with any test application, registration, or appointment, or request to be tested or registered; or who makes known or assists in making known to any applicant for test, in advance thereof, any question to be asked on such test; or willfully or through culpable negligence violates any of the civil service provisions of this Charter or any of the rules made in pursuance thereof, shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by fine or not less than fifty dollars nor more than one thousand dollars or by imprisonment for a term not to exceed six months. If any such person be an applicant for competitive test, he or she shall be excluded therefrom; if he or she be an eligible, his or her name shall be removed from the register of eligibles; and if he or she be an officer or employee of the City, he or she shall immediately forfeit his or her office or employment.

SECTION II: That the City Clerk is hereby directed to certify the amendment as set forth above to the Board of Elections of Butler County, Ohio for submission to the electors of the City of Hamilton, Ohio, at the next general election to be held on Tuesday, November 3, 2020, to be conducted at the usual places of holding and conducting elections in the City of Hamilton and between the usual hours of opening and closing the polls on election days as required by the Constitution and the laws of the State of Ohio.

SECTION III: That the amendment herein set forth shall be submitted to the electors in such a way so as to allow votes thereon to be cast separately from votes cast on any other question. Said amendment shall be designated on the ballot by its descriptive title as hereinafter set forth or in such other form as shall be determined by the election authorities. The adoption of such amendment by its descriptive title shall have the effect of adopting its text in full as set forth in this ordinance. The form of ballot to be used at said general election shall be as follows or in such other form as shall be determined by the election authorities.

Emergency Ordinance No. \_\_\_\_\_ (cont'd)

**OFFICIAL BALLOT**

General Election  
November 3, 2020  
City of Hamilton, Ohio

**PROPOSED AMENDMENT TO THE CHARTER OF THE CITY OF  
HAMILTON, OHIO**  
Submitted by the City Council

A Majority Affirmative Vote Is Necessary for Passage

**THE QUESTION**

Shall Article X, Sections 10.01 – 10.07, Sections 10.10, 10.11, and 10.20 and any other references of the Charter of the City of Hamilton, Ohio be amended to rename the Department of Civil Service and Personnel to the Department of Human Resources?

\_\_\_\_\_  
For the Amendment

\_\_\_\_\_  
Against the Amendment

SECTION IV: That the City Clerk shall cause the full text of this ordinance and the proposed Charter amendment contained herein to be published once a week for not less than two (2) consecutive weeks in the **Journal News**, a newspaper published in the City of Hamilton, Ohio, with the first publication being at least fifteen (15) days prior to the election at which the proposed Charter amendment is to be submitted to the electors of the City of Hamilton as authorized by Section 9 of Article XVIII of the Ohio Constitution and Section 731.211 of the Ohio Revised Code.

SECTION V: That the Board of Elections of Butler County, Ohio, shall certify to the City of Hamilton, Ohio, the result of the vote on said amendment, and if said amendment is approved by a majority vote of those voting thereon, Article X, Sections 10.01 – 10.07, Sections 10.10, 10.11, and 10.20 and any other references to the Department of Civil Service and Personnel or Director of Civil Service and Personnel in the Charter, as amended, shall become a part of the Charter of the City of Hamilton, Ohio. Said Board of Elections shall, if the amendment is so approved by the electors, deliver a certified copy of such amendment to the Secretary of State, as provided by Section 9 of Article XVIII of the Ohio Constitution.

SECTION VI: That the Board of Elections of Butler County, Ohio, be and it is hereby directed to give public notice of the time and place of holding such election by publication of such notice at least ten (10) days prior to the date of such election in a newspaper published and of general circulation in the City of Hamilton, Ohio, and to give such other notice, if any, as may be required by law and to take such other actions and to make such arrangements as is necessary for the conduct of the election with respect to the proposed Charter amendment authorized by this ordinance. That the City Manager and Director of Law are hereby authorized to take any other actions required to submit such amendment to the electors of the City on the date fixed in this ordinance.

SECTION VII: This ordinance is hereby declared to be an emergency measure for the reasons set forth in the preamble hereto and shall take force from and after its passage.

Emergency Ordinance No. \_\_\_\_\_ (cont'd)

PASSED: \_\_\_\_\_

Effective Date: \_\_\_\_\_

\_\_\_\_\_  
Mayor

ATTEST: \_\_\_\_\_  
City Clerk

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk for the City of Hamilton, Butler County, Ohio, hereby certify that the foregoing Emergency Ordinance No. \_\_\_\_\_ was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in the lobby of City Hall for a period of ten days. POSTED: \_\_\_\_\_.

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk of the City of Hamilton, Ohio, State of Ohio, I further certify that the foregoing Emergency Ordinance No. \_\_\_\_\_ was passed by a two-thirds majority of the members of the Council of the City of Hamilton, Ohio with \_\_\_\_\_ Council Members voting in favor of and \_\_\_\_\_ Council Members voting against the Emergency Ordinance, and that this is a true and exact copy of the Emergency Ordinance adopted by the Council of the City of Hamilton on August 12, 2020.

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**

Date: \_\_\_\_\_

## City Council Meeting Staff Report

**Report To:** The Honorable Mayor Patrick Moeller & Members of the City Council

**Report From:** The Charter Review Commission  
Timothy Werdmann, Esq., Executive Director of Internal Services  
Nicholas Garuckas, City Clerk

**Agenda Item:** An Emergency Ordinance to provide for the submission to the electors of the City of Hamilton, Ohio, at the General Election to be held on Tuesday, November 3, 2020, a proposed amendment to the City Charter the provisions of Article X, Department of Civil Service, Sections 10.01(D), Civil Service Commission, and 10.02 Classifications, as set forth in full in this ordinance.

<p><b>Approvals/Reviews</b> <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i></p>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	<p><b>Related Strategic Goal(s)</b></p> <input type="checkbox"/> <b>I</b> Realize new investments <input type="checkbox"/> <b>J</b> Increase gross wages <input type="checkbox"/> <b>P</b> Increase property values <input type="checkbox"/> <b>R</b> Generate recreational investments <input type="checkbox"/> <b>E</b> Engage citizens in activities <input checked="" type="checkbox"/> <b>O</b> General operations
<p><b>Ordinance or Resolution</b> <i>Emergency Ordinance</i></p>	<input checked="" type="checkbox"/> 1 <sup>st</sup> Reading Date: 7-22-2020 <input checked="" type="checkbox"/> 2 <sup>nd</sup> Reading Date: 8-12-2020 <input type="checkbox"/> Resolution Date: <input checked="" type="checkbox"/> Public Hearing Date: 7-22-2020	
<p><b>Prior Action/Review</b> <i>Please note if this item was discussed on a prior Council or other agenda</i></p>	<p><b>City Council (or other):</b> Caucus Report 6-24-2020 City Council Meeting</p>	
<p><b>Contract</b></p>	<input type="checkbox"/> Contract Required	<input checked="" type="checkbox"/> Additional Document(s) Attached
<p><b>Fiscal Impact</b></p>	<p>Budgeted: Less than \$1,000</p> <p>Expenditure: \$</p> <p>Source Funds:</p>	<p><i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i></p>

### Policy Issue

Does City Council wish to adopt legislation to submit the proposed amendment of Article X, Department of Civil Service and Personnel, Sections 10.01(D), Civil Service Commission, and 10.02, Classifications, to the Charter of the City of Hamilton, Ohio to the electors at the next general election?

### Policy Alternative(s)

Council may choose not to adopt legislation to submit proposed amendment of Article X, Department of Civil Service and Personnel, Sections 10.01(D), Civil Service Commission, and 10.02, Classifications, to the Charter of City of Hamilton, Ohio to the electors at the next general election. If City Council decides not to propose the amendment to Article X, then the Director of Civil Service and Personnel will remain under the authority of the Civil Service Commission and not the City Manager.



## **Charter Review Commission and Staff Recommendation**

Staff recommends that Council receive this report and adopt legislation to submit proposed amendment to Article X, Department of Civil Service and Personnel, Sections 10.01(D), Civil Service Commission, and 10.02, Classifications, of the Charter of the City of Hamilton, Ohio to the electors at the next general election. Particularly, it is recommended by the Charter Review Commission and City Staff that the Charter be amended to place the Director of Civil Service and Personnel underneath the authority of the City Manager and not the Civil Service Commission because it can be administratively difficult having a director report to a volunteer commission and not report to the City Manager while all other directors do.

## **Statutory/Policy Authority**

- Section 9, Article XVIII, of the Ohio Constitution.
- Section 3.09, Legislative Procedure, of the Charter of the City of Hamilton.
- Article X, Department of Civil Service, Sections 10.01(D), Civil Service Commission, and 10.02, Classifications

## **Fiscal Impact Summary**

There is no substantial fiscal impact as these amendments are procedural to the Charter of the City of Hamilton, Ohio. The Director of Civil Service and Personnel will still exist whether or not this proposed Charter amendment is passed by Council and submitted to the electors of the City of Hamilton, Ohio. The only difference is that if passed, the Director of Civil Service and Personnel will be placed underneath the authority of the City Manager and not the Civil Service Commission. It is required that the ordinance be posted in the local newspaper and filing fees may also be due to the Butler County Board of Elections so this issue can be placed on the November 2020 ballot, if passed. These costs are expected to be less than \$1,000.00.

## **Background Information**

The Charter Review Commission heard a proposed amendment to Article X, "Department of Civil Service and Personnel", Sections 10.01(D), Civil Service Commission, and 10.02, Classifications, from the City Administration as represented by Director Timothy Werdmann. The Charter Review Commission heard the request at their regular meetings on May 26, 2020 and June 1, 2020.

This amendment, if approved, will give the City Manager the authority to appoint and remove the Director of Civil Service and Personnel. This will remove the authority of the Civil Service Commission to appoint and remove the Director of Civil Service and Personnel. The Civil Service Commission will then act as a governing body of the Civil Service Rules rather than them also governing the Civil Service Department. The Director Civil Service and Personnel will be given a noncompetitive examination by the City Manager when being considered for the position. In the past, there has been administrative difficulty having a director of an entire department report to and be hired by an independent Commission of volunteers.

## **Attached Information**

- Redline of proposed amended language to Article X, Department of Civil Service and Personnel, Sections 10.01(D), Civil Service Commission, and 10.02, Classifications

## **Copies Provided to:**

The Charter Review Commission



**ARTICLE X  
DEPARTMENT OF CIVIL SERVICE**

**Section 10.01 Civil Service Commission**

(D) The ~~Civil Service Commission~~ City Manager shall appoint and may remove the Director of Civil Service, who shall be the administrative officer of the Department of Civil Service and the personnel officer of the City. Before his or her appointment, his or her qualification shall be ascertained by ~~an noncompetitive examination conducted by a special examining committee,~~ which examination shall relate to personnel selection and administration, ~~and may be either competitive, or noncompetitive, as the Commission shall determine. The Commission may by unanimous vote appoint or retain as Director of Civil Service a person residing in the City of Hamilton, Ohio.~~ The Director of Civil Service shall not hold any other office or employment in the service of the City. He or she shall appoint and may lay off, suspend, or remove such examiners, clerks, and other employees as may be necessary in the work of the Department, ~~except that the Commission shall appoint examiners for the Director of Civil Service.~~

**10.02 Classification.**

The administrative service of the City is hereby divided into the classified and unclassified service as follows:

(A) The unclassified service shall include all officers elected by the people; the City Manager; the members of the Civil Service Commission; all directors of departments ~~other than the Director of Civil Service~~; members of advisory boards appointed by the City Manager; a secretary to the Mayor, a secretary to the City Manager, one secretary to each director of a department; and the City Clerk.

(B) The classified service shall comprise all positions not specifically included by this Charter in the unclassified service and shall be divided into a competitive class and a noncompetitive class.

(1) The competitive class shall include all positions and employments for which it is practicable to determine the merit and fitness of applicants by competitive tests.

(2) The noncompetitive class shall consist of all positions requiring peculiar and exceptional qualifications of a scientific, managerial, professional, or educational character.

**EMERGENCY ORDINANCE NO. \_\_\_\_\_**

**AN EMERGENCY ORDINANCE TO PROVIDE FOR THE SUBMISSION TO THE ELECTORS OF THE CITY OF HAMILTON, OHIO, AT THE GENERAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2020, A PROPOSED AMENDMENT TO THE CITY CHARTER THE PROVISIONS OF ARTICLE X, DEPARTMENT OF CIVIL SERVICE, SECTIONS 10.01(D), CIVIL SERVICE COMMISSION, AND 10.02 CLASSIFICATIONS, AS SET FORTH IN FULL IN THIS EMERGENCY ORDINANCE.**

WHEREAS, the existing Charter of the City of Hamilton, Ohio has been reviewed by the Charter Review Commission and the Council of the City of Hamilton, Ohio, and Council has recommended that Article X of the Charter be amended; and

WHEREAS, based upon that review The Charter Review Commission has recommended that City Council pass an ordinance to submit a proposed amendment to the Charter to the electors, which proposed amendment will amend Article X, Department of Civil Service, Sections 10.01(D), Civil Service Commission, and 10.02, Classifications; and

WHEREAS, Article X, Sections 10.01(D) and 10.02 of the current Charter of the City of Hamilton, Ohio provides as follows:

**ARTICLE X  
DEPARTMENT OF CIVIL SERVICE**

**10.01 Civil Service Commission**

(D) The Civil Service Commission shall appoint and may remove the Director of Civil Service, who shall be the administrative officer of the Department of Civil Service and the personnel officer of the City. Before his or her appointment, his or her qualification shall be ascertained by an examination conducted by a special examining committee, which examination shall relate to personnel selection and administration, and may be either competitive, or noncompetitive, as the Commission shall determine. The Commission may by unanimous vote appoint or retain as Director of Civil Service a person residing in the City of Hamilton, Ohio. The Director of Civil Service shall not hold any other office or employment in the service of the City. He or she shall appoint and may lay off, suspend, or remove such examiners, clerks, and other employees as may be necessary in the work of the Department, except that the Commission shall appoint examiners for the Director of Civil Service.

**10.02 Classification**

The administrative service of the City is hereby divided into the classified and unclassified service as follows:

(A) The unclassified service shall include all officers elected by the people; the City Manager; the members of the Civil Service Commission; all directors of departments other than the Director of Civil Service; members of advisory boards appointed by the City Manager; a secretary to the Mayor, a secretary to the City Manager, one secretary to each director of a department; and the City Clerk.

(B) The classified service shall comprise all positions not specifically included by this Charter in the unclassified service and shall be divided into a competitive class and a noncompetitive class.

(1) The competitive class shall include all positions and employments for which it is practicable to determine the merit and fitness of applicants by competitive tests.

(2) The noncompetitive class shall consist of all positions requiring peculiar and exceptional qualifications of a scientific, managerial, professional, or educational character.

; and

**Emergency Ordinance No. \_\_\_\_\_ (cont'd)**

WHEREAS, this Council has recommended that Article X, Sections 10.01(D), Civil Service Commission, and 10.02, Classifications, of the Hamilton Charter, which governs the Civil Service Commission and their role in the Department Civil Service and Personnel, be amended to give the City Manager the authority to appoint and remove the Director of Civil Service and Personnel. This will remove the authority of the Civil Service Commission to appoint and remove the Director of Civil Service and Personnel. This will leave the Civil Service Commission as a governing body of the Civil Service Rules rather than them also governing the Civil Service Department. The Director Civil Service and Personnel will be given a noncompetitive examination by the City Manager when being considered for the position; and

WHEREAS, based upon the recommendation of the Charter Review Commission, at least two-thirds of this Council, as required by Section 9 of Article XVIII of the Ohio Constitution, desires to submit an amendment to the Charter of the City of Hamilton, Ohio to the electors of the City at the next general election to be held on Tuesday, November 3, 2020; and

WHEREAS, the subject matter herein constitutes an emergency in that it provides for the immediate preservation of the public peace, property, safety and welfare of the community in that such emergency measure shall permit the election authorities and other officials named in this ordinance to take the necessary actions and to make preparation for the submission of the amendment to the electors of the City at the general election to be held on Tuesday, November 3, 2020;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hamilton, Ohio:

SECTION I: That the proposed amendment to Article X, Sections 10.01(D) and 10.02, of the Charter of the City of Hamilton, Ohio, which provides the structure of the Civil Service Commission, shall be submitted to the electors of the City of Hamilton, Ohio for adoption or rejection at the next general election to be held on Tuesday, November 3, 2020. A vote of the majority of the electors of the City of Hamilton, Ohio, voting on the proposed amendment, is required for adoption of said amendment. The proposed amendment is to amend Article X, Department of Civil Service, Sections 10.01(D) and 10.02, of the Charter of the City of Hamilton, Ohio, with the proposed amendment Section 10.01(D) and 10.02 to read as follows:

**ARTICLE X**

**DEPARTMENT OF CIVIL SERVICE**

**10.01 Civil Service Commission**

(D) The City Manager shall appoint and may remove the Director of Civil Service, who shall be the administrative officer of the Department of Civil Service and the personnel officer of the City. Before his or her appointment, his or her qualification shall be ascertained by noncompetitive examination, which examination shall relate to personnel selection and administration. The Director of Civil Service shall not hold any other office or employment in the service of the City. He or she shall appoint and may lay off, suspend, or remove such examiners, clerks, and other employees as may be necessary in the work of the Department.

**10.02 Classification.**

The administrative service of the City is hereby divided into the classified and unclassified service as follows:

(A) The unclassified service shall include all officers elected by the people; the City Manager; the members of the Civil Service Commission; all directors of departments; members of advisory boards appointed by the City Manager; a secretary to the Mayor, a secretary to the City Manager, one secretary to each director of a department; and the City Clerk.

(B) The classified service shall comprise all positions not specifically included by this Charter in the unclassified service and shall be divided into a competitive class and a noncompetitive class.

(1) The competitive class shall include all positions and employments for which it is practicable to determine the merit and fitness of applicants by competitive tests.

(2) The noncompetitive class shall consist of all positions requiring peculiar and exceptional qualifications of a scientific, managerial, professional, or educational character.

SECTION II: That the City Clerk is hereby directed to certify the amendment as set forth above to the Board of Elections of Butler County, Ohio for submission to the electors of the City of Hamilton, Ohio, at the next general election to be held on Tuesday, November 3, 2020, to be conducted at the usual places of holding and conducting elections in the City of Hamilton and between the usual hours of opening and closing the polls on election days as required by the Constitution and the laws of the State of Ohio.

SECTION III: That the amendment herein set forth shall be submitted to the electors in such a way so as to allow votes thereon to be cast separately from votes cast on any other question. Said amendment shall be designated on the ballot by its descriptive title as hereinafter set forth or in such other form as shall be determined by the election authorities. The adoption of such amendment by its descriptive title shall have the effect of adopting its text in full as set forth in this ordinance. The form of ballot to be used at said general election shall be as follows or in such other form as shall be determined by the election authorities.

**OFFICIAL BALLOT**

General Election  
November 3, 2020  
City of Hamilton, Ohio

**PROPOSED AMENDMENT TO THE CHARTER OF THE CITY OF  
HAMILTON, OHIO**

Submitted by the City Council

A Majority Affirmative Vote Is Necessary for Passage

**THE QUESTION**

Shall Article X, Sections 10.01(D) and 10.02 of the Charter of the City of Hamilton, Ohio be amended to give the City Manager the authority to hire and remove the Director of Civil Service and Personnel and not the Civil Service Commission?

Emergency Ordinance No. \_\_\_\_\_ (cont'd)

\_\_\_\_\_  
For the Amendment

\_\_\_\_\_  
Against the Amendment

SECTION IV: That the City Clerk shall cause the full text of this ordinance and the proposed Charter amendment contained herein to be published once a week for not less than two (2) consecutive weeks in the **Journal News**, a newspaper published in the City of Hamilton, Ohio, with the first publication being at least fifteen (15) days prior to the election at which the proposed Charter amendment is to be submitted to the electors of the City of Hamilton as authorized by Section 9 of Article XVIII of the Ohio Constitution and Section 731.211 of the Ohio Revised Code.

SECTION V: That the Board of Elections of Butler County, Ohio, shall certify to the City of Hamilton, Ohio, the result of the vote on said amendment, and if said amendment is approved by a majority vote of those voting thereon, Article X, Sections 10.01(D) and 10.02, as amended, shall become a part of the Charter of the City of Hamilton, Ohio. Said Board of Elections shall, if the amendment is so approved by the electors, deliver a certified copy of such amendment to the Secretary of State, as provided by Section 9 of Article XVIII of the Ohio Constitution.

SECTION VI: That the Board of Elections of Butler County, Ohio, be and it is hereby directed to give public notice of the time and place of holding such election by publication of such notice at least ten (10) days prior to the date of such election in a newspaper published and of general circulation in the City of Hamilton, Ohio, and to give such other notice, if any, as may be required by law and to take such other actions and to make such arrangements as is necessary for the conduct of the election with respect to the proposed Charter amendment authorized by this ordinance. That the City Manager and Director of Law are hereby authorized to take any other actions required to submit such amendment to the electors of the City on the date fixed in this ordinance.

SECTION VII: This ordinance is hereby declared to be an emergency measure for the reasons set forth in the preamble hereto and shall take force from and after its passage.

PASSED: \_\_\_\_\_

Effective Date: \_\_\_\_\_

\_\_\_\_\_  
Mayor

ATTEST: \_\_\_\_\_

City Clerk

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk for the City of Hamilton, Butler County, Ohio, hereby certify that the foregoing Emergency Ordinance No. \_\_\_\_\_ was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in the lobby of City Hall for a period of ten days. POSTED: \_\_\_\_\_.

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**

Emergency Ordinance No. \_\_\_\_\_ (cont'd)

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk of the City of Hamilton, Ohio, State of Ohio, I further certify that the foregoing Emergency Ordinance No. \_\_\_\_\_ was passed by a two-thirds majority of the members of the Council of the City of Hamilton, Ohio with \_\_\_\_\_ Council Members voting in favor of and \_\_\_\_\_ Council Members voting against the Emergency Ordinance, and that this is a true and exact copy of the Emergency Ordinance adopted by the Council of the City of Hamilton on August 12, 2020.

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**

Date: \_\_\_\_\_

## City Council Meeting Staff Report

**Report To:** The Honorable Mayor Patrick Moeller & Members of the City Council

**Report From:** The Charter Review Commission  
Timothy Werdmann, Executive Director of Internal Services  
Nicholas Garuckas, City Clerk

**Agenda Item:** An Emergency Ordinance to provide for the submission to the electors of the City of Hamilton, Ohio, at the General Election to be held on Tuesday, November 3, 2020, a proposed amendment to the City Charter the provisions of Article X, Department of Civil Service, Sections 10.01(H), Civil Service Rules, as set forth in full in this ordinance.

<p><b>Approvals/Reviews</b> <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i></p>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	<p><b>Related Strategic Goal(s)</b></p> <input type="checkbox"/> <b>I</b> Realize new investments <input type="checkbox"/> <b>J</b> Increase gross wages <input type="checkbox"/> <b>P</b> Increase property values <input type="checkbox"/> <b>R</b> Generate recreational investments <input type="checkbox"/> <b>E</b> Engage citizens in activities <input checked="" type="checkbox"/> <b>O</b> General operations
<p><b>Ordinance or Resolution</b> <i>Emergency Ordinance</i></p>	<input checked="" type="checkbox"/> 1 <sup>st</sup> Reading Date: 7-22-2020 <input checked="" type="checkbox"/> 2 <sup>nd</sup> Reading Date: 8-12-2020 <input type="checkbox"/> Resolution Date: <input checked="" type="checkbox"/> Public Hearing Date: 7-22-2020	
<p><b>Prior Action/Review</b> <i>Please note if this item was discussed on a prior Council or other agenda</i></p>	<p><b>City Council (or other):</b> Caucus Report 6-24-2020 City Council Meeting</p>	
<p><b>Contract</b></p>	<input type="checkbox"/> Contract Required	<input checked="" type="checkbox"/> Additional Document(s) Attached
<p><b>Fiscal Impact</b></p>	<p>Budgeted: Less than \$1,000          Expenditure: \$          Source Funds:</p>	<p><i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i></p>

**Policy Issue**

Does City Council wish to adopt legislation to submit the proposed amendment of Article X, “Department of Civil Service and Personnel”, Section 10.03(H), Civil Service Rules, to the Charter of the City of Hamilton, Ohio to the electors at the next general election to increase the number of hours for temporary employment from 1040 hours to 1560 hours?

**Policy Alternative(s)**

Council may choose not to adopt legislation to submit proposed amendment of Article X, “Department of Civil Service and Personnel”, Section 10.03(H), Civil Service Rules, to the Charter of City of Hamilton, Ohio to the electors at the next general election. If City Council decides not to propose the amendment to Article X, then the hours of employment temporary employees will remain at a maximum of 1,040 hours.



## **Charter Review Commission and Staff Recommendation**

Staff recommends that Council receive this report and adopt legislation to submit proposed amendment to Article X, “Department of Civil Service and Personnel”, Section 10.03(H), Civil Service Rules, of the Charter of the City of Hamilton, Ohio to the electors at the next general election. Particularly, it is recommended by the Charter Review Commission and City Staff that the Charter be amended to increase the number of hours of temporary of employees are allowed because a greater demand has been placed on seasonal work the last few years.

## **Statutory/Policy Authority**

- Section 9, Article XVIII, of the Ohio Constitution.
- Section 3.09, Legislative Procedure, of the Charter of the City of Hamilton.
- Article X, Department of Civil Service, Section 10.03(H), Civil Service Rules

## **Fiscal Impact Summary**

There is no substantial fiscal impact as these amendments are procedural to the Charter of the City of Hamilton, Ohio. Temporary employees will be hired for a predetermined amount of time that will be budgeted ahead of their hiring. This increase in hours will reduce the need to request for extensions from the Civil Service Commission saving administrative assets. It is required that the ordinance be posted in the local newspaper and filing fees may also be due to the Butler County Board of Elections so this issue can be placed on the November 2020 ballot, if passed. These costs are expected to be less than \$1,000.00.

## **Background Information**

The Charter Review Commission heard a proposed amendment to Article X, “Department of Civil Service and Personnel”, Section 10.03(H), Civil Service Rules, from the City Administration as represented by Director Timothy Werdmann. The Charter Review Commission heard the request at their regular meetings on May 26, 2020 and June 1, 2020.

This amendment, if approved, will increase the number of hours for temporary employment from 1,040 to 1,560 hours. This allows for approximately nine (9) months of uninterrupted seasonal employment. This would be particularly beneficial to the Department of Resident Services. Seasonal employment in the City used to be primarily tied to summer months recreation. With the creation of the Hamilton Parks Conservancy, there is less need for temporary summer help. Temporary employment is now primarily tied to quality of life type issues involving nuisance code enforcement and property maintenance issues that are addressed regularly from early spring to late fall. Tracking hours and requesting extensions ties up resources that could be better utilized elsewhere.

## **Attached Information**

- Redline of proposed amended language to Article X, “Department of Civil Service and Personnel”, Section 10.03(H), Civil Service Rules

## **Copies Provided to:**

The Charter Review Commission



**ARTICLE X**  
**DEPARTMENT OF CIVIL SERVICE**

**Section 10.03 Civil Service Rules**

(H) For temporary employment without test for transitory or seasonal work, but such employment shall require the consent of the Civil Service Commission in each case, and shall not continue for more than ~~one thousand forty (1,040)~~ **one thousand five hundred and sixty (1,560)** work hours in any twelve (12) consecutive month period unless renewed by the Civil Service Commission.

**EMERGENCY ORDINANCE NO. \_\_\_\_\_**

**AN EMERGENCY ORDINANCE TO PROVIDE FOR THE SUBMISSION TO THE ELECTORS OF THE CITY OF HAMILTON, OHIO, AT THE GENERAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2020, A PROPOSED AMENDMENT TO THE CITY CHARTER THE PROVISIONS OF ARTICLE X, DEPARTMENT OF CIVIL SERVICE, SECTION 10.03(H), CIVIL SERVICE RULES, AS SET FORTH IN FULL IN THIS EMERGENCY ORDINANCE.**

WHEREAS, the existing Charter of the City of Hamilton, Ohio has been reviewed by the Charter Review Commission and the Council of the City of Hamilton, Ohio, and Council has recommended that Article X of the Charter be amended; and

WHEREAS, based upon that review The Charter Review Commission has recommended that City Council pass an ordinance to submit a proposed amendment to the Charter to the electors, which proposed amendment will amend Article X, Department of Civil Service, Section 10.03(H), Civil Service Rules; and

WHEREAS, Article X, Sections 10.03(H) of the current Charter of the City of Hamilton, Ohio provides as follows:

**ARTICLE X  
DEPARTMENT OF CIVIL SERVICE**

**10.03 Civil Service Rules**

(H) For temporary employment without test for transitory or seasonal work, but such employment shall require the consent of the Civil Service Commission in each case, and shall not continue for more than one thousand forty (1,040) work hours in any twelve (12) consecutive month period unless renewed by the Civil Service Commission.

; and

WHEREAS, this Council has recommended that Article X, Section 10.03(H), Civil Service Rules, of the Hamilton Charter, which governs the Civil Service Commission and how Civil Service exams are issued and other employment issues, be amended to increase the number of hours for temporary employment from 1,040 to 1,560 hours. Seasonal employment in the City used to be primarily tied to summer months recreation. Temporary employment is now primarily tied to quality of life type issues that are addressed regularly from early spring to late fall. Tracking hours and requesting extensions ties up resources that could be better utilized elsewhere; and

WHEREAS, based upon the recommendation of the Charter Review Commission, at least two-thirds of this Council, as required by Section 9 of Article XVIII of the Ohio Constitution, desires to submit an amendment to the Charter of the City of Hamilton, Ohio to the electors of the City at the next general election to be held on Tuesday, November 3, 2020; and

WHEREAS, the subject matter herein constitutes an emergency in that it provides for the immediate preservation of the public peace, property, safety and welfare of the community in that such emergency measure shall permit the election authorities and other officials named in this ordinance to take the necessary actions and to make preparation for the submission of the amendment to the electors of the City at the general election to be held on Tuesday, November 3, 2020;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hamilton, Ohio:

SECTION I: That the proposed amendment to Article X, Section 10.03(H), of the Charter of the City of Hamilton, Ohio, which provides the structure of the Civil Service Commission and how Civil Service exams are issued and other employment issues, shall be submitted to the electors of the City of Hamilton, Ohio for adoption or rejection at the next general election to be held on Tuesday, November 3, 2020. A vote of the majority of the electors of the City of Hamilton, Ohio, voting on the proposed amendment, is required for adoption of said amendment. The proposed amendment is to amend Article X, Department of Civil Service, Section 10.03(H), of the Charter of the City of Hamilton, Ohio, with the proposed amendment Section 10.03(H) to read as follows:

Emergency Ordinance No. \_\_\_\_\_ (cont'd)

**ARTICLE X**

**DEPARTMENT OF CIVIL SERVICE**

**10.03 Civil Service Rules**

(H) For temporary employment without test for transitory or seasonal work, but such employment shall require the consent of the Civil Service Commission in each case, and shall not continue for more than one thousand five hundred and sixty (1,560) work hours in any twelve (12) consecutive month period unless renewed by the Civil Service Commission.

SECTION II: That the City Clerk is hereby directed to certify the amendment as set forth above to the Board of Elections of Butler County, Ohio for submission to the electors of the City of Hamilton, Ohio, at the next general election to be held on Tuesday, November 3, 2020, to be conducted at the usual places of holding and conducting elections in the City of Hamilton and between the usual hours of opening and closing the polls on election days as required by the Constitution and the laws of the State of Ohio.

SECTION III: That the amendment herein set forth shall be submitted to the electors in such a way so as to allow votes thereon to be cast separately from votes cast on any other question. Said amendment shall be designated on the ballot by its descriptive title as hereinafter set forth or in such other form as shall be determined by the election authorities. The adoption of such amendment by its descriptive title shall have the effect of adopting its text in full as set forth in this ordinance. The form of ballot to be used at said general election shall be as follows or in such other form as shall be determined by the election authorities.

**OFFICIAL BALLOT**

General Election  
November 3, 2020  
City of Hamilton, Ohio

**PROPOSED AMENDMENT TO THE CHARTER OF THE CITY OF  
HAMILTON, OHIO**

Submitted by the City Council

A Majority Affirmative Vote Is Necessary for Passage

**THE QUESTION**

Shall Article X, Section 10.03(H) of the Charter of the City of Hamilton, Ohio be amended to increase the number of temporary employment hours from 1,040 to 1,560 hours?

\_\_\_\_\_  
For the Amendment

\_\_\_\_\_  
Against the Amendment

\_\_\_\_\_

**Emergency Ordinance No. \_\_\_\_\_ (cont'd)**

SECTION IV: That the City Clerk shall cause the full text of this ordinance and the proposed Charter amendment contained herein to be published once a week for not less than two (2) consecutive weeks in the Journal News, a newspaper published in the City of Hamilton, Ohio, with the first publication being at least fifteen (15) days prior to the election at which the proposed Charter amendment is to be submitted to the electors of the City of Hamilton as authorized by Section 9 of Article XVIII of the Ohio Constitution and Section 731.211 of the Ohio Revised Code.

SECTION V: That the Board of Elections of Butler County, Ohio, shall certify to the City of Hamilton, Ohio, the result of the vote on said amendment, and if said amendment is approved by a majority vote of those voting thereon, Article X, Section 10.03(H), as amended, shall become a part of the Charter of the City of Hamilton, Ohio. Said Board of Elections shall, if the amendment is so approved by the electors, deliver a certified copy of such amendment to the Secretary of State, as provided by Section 9 of Article XVIII of the Ohio Constitution.

SECTION VI: That the Board of Elections of Butler County, Ohio, be and it is hereby directed to give public notice of the time and place of holding such election by publication of such notice at least ten (10) days prior to the date of such election in a newspaper published and of general circulation in the City of Hamilton, Ohio, and to give such other notice, if any, as may be required by law and to take such other actions and to make such arrangements as is necessary for the conduct of the election with respect to the proposed Charter amendment authorized by this ordinance. That the City Manager and Director of Law are hereby authorized to take any other actions required to submit such amendment to the electors of the City on the date fixed in this ordinance.

SECTION VII: This ordinance is hereby declared to be an emergency measure for the reasons set forth in the preamble hereto and shall take force from and after its passage.

PASSED: \_\_\_\_\_

Effective Date: \_\_\_\_\_

\_\_\_\_\_  
Mayor

ATTEST: \_\_\_\_\_  
City Clerk

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk for the City of Hamilton, Butler County, Ohio, hereby certify that the foregoing Emergency Ordinance No. \_\_\_\_\_ was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in the lobby of City Hall for a period of ten days. POSTED: \_\_\_\_\_.

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk of the City of Hamilton, Ohio, State of Ohio, I further certify that the foregoing Emergency Ordinance No. \_\_\_\_\_ was passed by a two-thirds majority of the members of the Council of the City of Hamilton, Ohio with \_\_\_\_\_ Council Members voting in favor of and \_\_\_\_\_ Council Members voting against the Emergency Ordinance, and that this is a true and exact copy of the Emergency Ordinance adopted by the Council of the City of Hamilton on August 12, 2020.

Emergency Ordinance No. \_\_\_\_\_ (cont'd)

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**

Date: \_\_\_\_\_

## City Council Meeting Staff Report

**Report To:** The Honorable Mayor Patrick Moeller & Members of the City Council

**Report From:** The Charter Review Commission  
Pat Moeller, Mayor  
Nicholas Garuckas, City Clerk

**Agenda Item:** An Emergency Ordinance to provide for the submission to the electors of the City of Hamilton, Ohio, at the General Election to be held on Tuesday, November 3, 2020, a proposed amendment to the City Charter by establishing a new Article XI, Economic Development, as set forth in full in this ordinance.

<p><b>Approvals/Reviews</b> <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i></p>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	<p><b>Related Strategic Goal(s)</b></p> <input type="checkbox"/> <b>I</b> Realize new investments <input type="checkbox"/> <b>J</b> Increase gross wages <input type="checkbox"/> <b>P</b> Increase property values <input type="checkbox"/> <b>R</b> Generate recreational investments <input type="checkbox"/> <b>E</b> Engage citizens in activities <input checked="" type="checkbox"/> <b>O</b> General operations
<p><b>Ordinance or Resolution</b> <i>Emergency Ordinance</i></p>	<input checked="" type="checkbox"/> 1 <sup>st</sup> Reading Date: 7-22-2020 <input checked="" type="checkbox"/> 2 <sup>nd</sup> Reading Date: 8-12-2020 <input type="checkbox"/> Resolution Date: <input checked="" type="checkbox"/> Public Hearing Date: 7-22-2020	
<p><b>Prior Action/Review</b> <i>Please note if this item was discussed on a prior Council or other agenda</i></p>	<p><b>City Council (or other):</b> Caucus Report 6-24-2020 City Council Meeting</p>	
<p><b>Contract</b></p>	<input type="checkbox"/> Contract Required	<input checked="" type="checkbox"/> Additional Document(s) Attached
<p><b>Fiscal Impact</b></p>	<p>Budgeted: Less than \$1,000</p>	<p><i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i></p>
	<p>Expenditure: \$</p>	
	<p>Source Funds:</p>	

**Policy Issue**

Does City Council wish to adopt legislation to submit the proposed establishment of a new Article XI Economic Development to the Charter of the City of Hamilton, Ohio to the electors at the next general election?

**Policy Alternative(s)**

Council may choose not to adopt legislation to submit proposed establishment of a new Article XI Economic Development to the Charter of City of Hamilton, Ohio to the electors at the next general election. If City Council decides not to propose the establishment of a new Article XI, then the Department of Economic Development may be abolished or its purpose modified solely through City Ordinance as may be the will of a future Council .



## **Charter Review Commission and Staff Recommendation**

Staff recommends that Council receive this report and adopt legislation to submit proposed establishment of a new Article XI, Economic Development, of the Charter of the City of Hamilton, Ohio to the electors at the next general election. Particularly, it is recommended by the Charter Review Commission and City Staff that the Charter be amended to establish the Department of Economic Development as a Charter Department so it can only be modified by the electors of the City of Hamilton, Ohio.

## **Statutory/Policy Authority**

- Section 9, Article XVIII, of the Ohio Constitution.
- Section 3.09, Legislative Procedure, of the Charter of the City of Hamilton.
- Establishment of a new Article XI, "Economic Development" to the Charter of the City of Hamilton.
- Renumbering of all subsequent Articles of the Charter starting with Public Health as the new Article XII

## **Fiscal Impact Summary**

There is no substantial fiscal impact as these amendments are procedural to the Charter of the City of Hamilton, Ohio. The Department of Economic Development will still exist whether or not this proposed Charter amendment is passed by Council and submitted to the electors of the City of Hamilton, Ohio. It is required that the ordinance be posted in the local newspaper and filing fees may also be due to the Butler County Board of Elections so this issue can be placed on the November 2020 ballot, if passed. These costs are expected to be less than \$1,000.00.

## **Background Information**

The Charter Review Commission heard a proposed amendment establishing a new Article XI, Economic Development from the Office of the Mayor, as represented by the City Clerk. The Charter Review Commission heard the request at their regular meeting on July 6, 2020..

The reasoning for this proposed amendment is that it is believed that Economic Development has seen an increase of importance within the City of Hamilton as our current Economic Development Department has played a crucial role in assisting with the revitalization of the City. Council can establish and repeal City Departments by legislation at will except for those that are specifically established by the City Charter. Since Economic Development has begun playing this crucial role, the Mayor wishes to establish the Department of Economic Development as a Chartered Department. This will ensure that a future Council will not be able to abolish or modify the mission of the Economic Development Department without the consent of the electors of the City of Hamilton. The subsequent Articles of the City Charter will be renumbered starting with Public Health as the new Article XII.

## **Attached Information**

- Proposed language of a new Article XI Economic Development

## **Copies Provided to:**

The Charter Review Commission



New Article

(Subsequent articles will be re-numbered)

## **ARTICLE XI**

### **ECONOMIC DEVELOPMENT**

#### **11.01 Duties of Director of Economic Development**

There shall be a Department of Economic Development to be administered by the Director of Economic Development. The Director of Economic Development shall have charge of the City's economic development program and related operations and activities; and the business retention and attraction efforts, workforce development, and collaborating with agencies that support the growth of the City's economy.

**EMERGENCY ORDINANCE NO. \_\_\_\_\_**

**AN EMERGENCY ORDINANCE TO PROVIDE FOR THE SUBMISSION TO THE ELECTORS OF THE CITY OF HAMILTON, OHIO, AT THE GENERAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2020, A PROPOSED AMENDMENT TO THE CITY CHARTER BY ESTABLISHING A NEW ARTICLE XI, ECONOMIC DEVELOPMENT, AS SET FORTH IN FULL IN THIS EMERGENCY ORDINANCE.**

WHEREAS, the existing Charter of the City of Hamilton, Ohio has been reviewed by the Charter Review Commission and the Council of the City of Hamilton, Ohio, and Council has recommended that a new article of the Charter be established to preserve the crucial role played by the Department of Economic Development in the development and revitalization of the City of Hamilton, Ohio; and

WHEREAS, based upon that review The Charter Review Commission has recommended that City Council pass an ordinance to submit a proposed amendment to the Charter to the electors, which proposed amendment will establish a new Article XI, Economic Development, and renumber all subsequent Articles beginning with Public Health as the new Article XII of the Charter of the City of Hamilton, Ohio; and

WHEREAS, Article XI would be a new Article to the current Charter of the City of Hamilton, Ohio provides as follows:

**ARTICLE XI  
ECONOMIC DEVELOPMENT**

**11.01 Duties of Director of Economic Development**

There shall be a Department of Economic Development to be administered by the Director of Economic Development. The Director of Economic Development shall have charge of the City's economic development program and related operations and activities; and the business retention and attraction efforts, workforce development, and collaborating with agencies that support the growth of the City's economy.

; and

WHEREAS, this Council has recommended that a new Article XI of the Hamilton Charter be established as it is believed that Economic Development has seen an increase of importance within the City of Hamilton as our current Economic Development Department has played a crucial role in assisting with the revitalization of the City. Council can establish and repeal City Departments by legislation at will, except for those that our specifically established by the City Charter. Since Economic Development has begun playing this crucial role, Council wishes to establish the Department of Economic Development as a Chartered Department. This will ensure that a future Council will not be able to abolish or modify the mission of the Economic Development Department without the consent of the electors of the City of Hamilton; and

WHEREAS, based upon the recommendation of the Charter Review Commission, at least two-thirds of this Council, as required by Section 9 of Article XVIII of the Ohio Constitution, desires to submit an amendment to the Charter of the City of Hamilton, Ohio to the electors of the City at the next general election to be held on Tuesday, November 3, 2020; and

WHEREAS, the subject matter herein constitutes an emergency in that it provides for the immediate preservation of the public peace, property, safety and welfare of the community in that such emergency measure shall permit the election authorities and other officials named in this ordinance to take the necessary actions and to make preparation for the submission of the amendment to the electors of the City at the general election to be held on Tuesday, November 3, 2020;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hamilton, Ohio:

**Emergency Ordinance No. \_\_\_\_\_ (cont'd)**

SECTION I: That the proposed establishment of a new Article XI, of the Charter of the City of Hamilton, Ohio, which provides the structure of the Department of Economic Development, shall be submitted to the electors of the City of Hamilton, Ohio for adoption or rejection at the next general election to be held on Tuesday, November 3, 2020. A vote of the majority of the electors of the City of Hamilton, Ohio, voting on the proposed amendment, is required for adoption of said amendment. The proposed amendment is to establish a new Article XI, Economic Development, and renumber all subsequent Articles beginning with Public Health as the new Article XII of the Charter of the City of Hamilton, Ohio, with the proposed new Article XI to read as follows:

**ARTICLE XI  
ECONOMIC DEVELOPMENT**

**11.01 Duties of Director of Economic Development**

There shall be a Department of Economic Development to be administered by the Director of Economic Development. The Director of Economic Development shall have charge of the City's economic development program and related operations and activities; and the business retention and attraction efforts, workforce development, and collaborating with agencies that support the growth of the City's economy.

SECTION II: That the City Clerk is hereby directed to certify the amendment as set forth above to the Board of Elections of Butler County, Ohio for submission to the electors of the City of Hamilton, Ohio, at the next general election to be held on Tuesday, November 3, 2020, to be conducted at the usual places of holding and conducting elections in the City of Hamilton and between the usual hours of opening and closing the polls on election days as required by the Constitution and the laws of the State of Ohio.

SECTION III: That the amendment herein set forth shall be submitted to the electors in such a way so as to allow votes thereon to be cast separately from votes cast on any other question. Said amendment shall be designated on the ballot by its descriptive title as hereinafter set forth or in such other form as shall be determined by the election authorities. The adoption of such amendment by its descriptive title shall have the effect of adopting its text in full as set forth in this ordinance. The form of ballot to be used at said general election shall be as follows or in such other form as shall be determined by the election authorities.

Emergency Ordinance No. \_\_\_\_\_ (cont'd)

**OFFICIAL BALLOT**

General Election  
November 3, 2020  
City of Hamilton, Ohio

**PROPOSED AMENDMENT TO THE CHARTER OF THE CITY OF  
HAMILTON, OHIO**  
Submitted by the City Council

A Majority Affirmative Vote Is Necessary for Passage

**THE QUESTION**

Shall a new Article XI of the Charter of the City of Hamilton, Ohio be established as follows:

**“ARTICLE XI  
ECONOMIC DEVELOPMENT**

**11.01 Duties of Director of Economic Development**

There shall be a Department of Economic Development to be administered by the Director of Economic Development. The Director of Economic Development shall have charge of the City's economic development program and related operations and activities; and the business retention and attraction efforts, workforce development, and collaborating with agencies that support the growth of the City's economy, and renumbering the remaining Articles.” ?

\_\_\_\_\_  
For the Amendment

\_\_\_\_\_  
Against the Amendment

\_\_\_\_\_

SECTION IV: That the City Clerk shall cause the full text of this ordinance and the proposed Charter amendment contained herein to be published once a week for not less than two (2) consecutive weeks in the **Journal News**, a newspaper published in the City of Hamilton, Ohio, with the first publication being at least fifteen (15) days prior to the election at which the proposed Charter amendment is to be submitted to the electors of the City of Hamilton, Ohio as authorized by Section 9 of Article XVIII of the Ohio Constitution and Section 731.211 of the Ohio Revised Code.

SECTION V: That the Board of Elections of Butler County, Ohio, shall certify to the City of Hamilton, Ohio, the result of the vote on said amendment, and if said amendment is approved by a majority vote of those voting thereon, a new Article XI Economic Development, as amended, shall become a part of the Charter of the City of Hamilton, Ohio. Said Board of Elections shall, if the amendment is so approved by the electors, deliver a certified copy of such amendment to the Secretary of State, as provided by Section 9 of Article XVIII of the Ohio Constitution.

**Emergency Ordinance No. \_\_\_\_\_ (cont'd)**

SECTION VI: That the Board of Elections of Butler County, Ohio, be and it is hereby directed to give public notice of the time and place of holding such election by publication of such notice at least ten (10) days prior to the date of such election in a newspaper published and of general circulation in the City of Hamilton, Ohio, and to give such other notice, if any, as may be required by law and to take such other actions and to make such arrangements as is necessary for the conduct of the election with respect to the proposed Charter amendment authorized by this ordinance. That the City Manager and Director of Law are hereby authorized to take any other actions required to submit such amendment to the electors of the City on the date fixed in this ordinance.

SECTION VII: This ordinance is hereby declared to be an emergency measure for the reasons set forth in the preamble hereto and shall take force from and after its passage.

PASSED: \_\_\_\_\_

Effective Date: \_\_\_\_\_

\_\_\_\_\_  
Mayor

ATTEST: \_\_\_\_\_

City Clerk

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk for the City of Hamilton, Butler County, Ohio, hereby certify that the foregoing Emergency Ordinance No. \_\_\_\_\_ was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in the lobby of City Hall for a period of ten days. POSTED: \_\_\_\_\_.

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk of the City of Hamilton, Ohio, State of Ohio, I further certify that the foregoing Emergency Ordinance No. \_\_\_\_\_ was passed by a two-thirds majority of the members of the Council of the City of Hamilton, Ohio with \_\_\_\_\_ Council Members voting in favor of and \_\_\_\_\_ Council Members voting against the Emergency Ordinance, and that this is a true and exact copy of the Emergency Ordinance adopted by the Council of the City of Hamilton on August 12, 2020.

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**

Date: \_\_\_\_\_

## City Council Meeting Staff Report

**Report To:** The Honorable Mayor Patrick Moeller & Members of the City Council

**Report From:** The Charter Review Commission  
Mark Mercer, Fire Chief  
Nicholas Garuckas, City Clerk

**Agenda Item:** An Emergency Ordinance to provide for the submission to the electors of the City of Hamilton, Ohio, at the General Election to be held on Tuesday, November 3, 2020, a proposed amendment to the City Charter the provisions of Article XII, Section 12.03, relating to Fire Force, as set forth in full in this ordinance.

<p><b>Approvals/Reviews</b> <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i></p>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	<p><b>Related Strategic Goal(s)</b></p> <input type="checkbox"/> <b>I</b> Realize new investments <input type="checkbox"/> <b>J</b> Increase gross wages <input type="checkbox"/> <b>P</b> Increase property values <input type="checkbox"/> <b>R</b> Generate recreational investments <input type="checkbox"/> <b>E</b> Engage citizens in activities <input checked="" type="checkbox"/> <b>O</b> General operations
<p><b>Ordinance or Resolution</b> <i>Emergency Ordinance</i></p>	<input checked="" type="checkbox"/> 1 <sup>st</sup> Reading Date: 7-22-2020 <input checked="" type="checkbox"/> 2 <sup>nd</sup> Reading Date: 8-12-2020 <input type="checkbox"/> Resolution Date: <input checked="" type="checkbox"/> Public Hearing Date: 7-22-2020	
<p><b>Prior Action/Review</b> <i>Please note if this item was discussed on a prior Council or other agenda</i></p>	<p><b>City Council (or other):</b> Caucus Report 6-24-2020 City Council Meeting</p>	
<p><b>Contract</b></p>	<input type="checkbox"/> Contract Required	<input checked="" type="checkbox"/> Additional Document(s) Attached
<p><b>Fiscal Impact</b></p>	<p>Budgeted: Less than \$1,000</p> <p>Expenditure: \$</p> <p>Source Funds:</p>	<p><i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i></p>

### Policy Issue

Does City Council wish to adopt legislation to submit the proposed amendment of Article XII, Section 12.03 Fire Force to the Charter of the City of Hamilton, Ohio to the electors at the next general election?

### Policy Alternative(s)

Council may choose not to adopt legislation to submit proposed amendments of Article XII, Section 12.03 Fire Force to the Charter of City of Hamilton, Ohio to the electors at the next general election. If City Council decides not to propose the amendment to Article XII, Section 12.03, to the electors at the next general election, the current Charter language will remain in place, which will contain language contradictory to the current practices in the Fire Division.



## **Charter Review Commission and Staff Recommendation**

Staff recommends that Council receive this report and adopt legislation to submit proposed amendments to Article XII, Section 12.03, of the Charter of the City of Hamilton, Ohio to the electors at the next general election. Particularly, it is recommended by the Charter Review Commission and City Staff that the Charter be amended to be more aligned with the current procedures.

## **Statutory/Policy Authority**

- Section 9, Article XVIII, of the Ohio Constitution.
- Section 3.09, Legislative Procedure, of the Charter of the City of Hamilton.
- Section 12.03, Fire Force, of the Charter of the City of Hamilton.

## **Fiscal Impact Summary**

There is no substantial fiscal impact as these changes are procedural changes to the Charter of the City of Hamilton, Ohio with the shifts of the fire fighters still being decided through language in the collective bargaining agreement between the City and the fire union. It is required that the ordinance be posted in the local newspaper and filing fees may also be due to the Butler County Board of Elections so this issue can be placed on the November 2020 ballot, if passed. These costs are expected to be less than \$1,000.00.

## **Background Information**

The Charter Review Commission heard a proposed amendment to Article XII, Section 12.03, Fire Force, from Fire Chief Mark Mercer. The Charter Review Commission heard Chief Mercer's request at their regular meeting on May 11, 2020. This proposal can be read in full in the attached letter from Chief Mercer to the Executive Director of Public Safety, Scott Scrimizzi, dated April 22, 2020. The Commission originally approved of this amendment but it was revised at the June 29, 2020 Meeting after receiving testimony from several community leaders and Hamilton Professional Fire Fighters IAFF of Local 20. Chief Mercer then revised his original amendment to the current proposal in another letter to Executive Director Scott Scrimizzi dated June 24, 2020. Chief Mercer then addressed a letter to the Mayor and Council dated July 14, 2020

The Charter Review Commission believed that this was an important and complicated issue. That is why though the Charter Review Commission did approve of Chief Mercer's recommendations, the Commission wanted to stress to Council that further discussion may be needed at the Council level.

Please see the attached letters for an explanation of the original and passed amendment.

## **Attached Information**

- April 22, 2020 Letter from Chief Mercer to Executive Director Scrimizzi relative to Amending Section 12.03 Fire Force.
- June 24, 2020 Letter from Chief Mercer to Executive Director Scrimizzi relative to Amending Section 12.03 Fire Force.
- July 14, 2020 Letter from Chief Mercer to Mayor and Council relative to Amending Section 12.03 Fire Force.
- Redline of the Recommended amendment of Section 12.03 Fire Force

## **Copies Provided to:**

The Charter Review Commission





Founded 1791

**Hamilton Fire Department**  
Mark F. Mercer, Chief

77 Pershing Avenue  
Hamilton, Ohio 45011  
513.785.7500  
Fax 513.867.7321

April 22, 2020

Director Scrimizzi,

Please see my recommendation for a revision to Section 12.03 of the city charter. There are several reasons for which I recommend these changes.

The current charter describes a scheduling procedure which is outdated, and which is not applied as described in the charter. I feel it is important to deconflict the charter and actual practice. While the current charter describes a schedule which would be manageable within the FLSA, the application is not consistent with the negotiated agreement, nor is it a manageable schedule in the modern fire service.

### **12.03 Fire Force**

The City shall maintain a fire force consisting of an officer in charge thereof and of such number of other officers, firefighters and employees as may be fixed in accordance with the provisions of Section 5.09 of this Charter. In case of riot, conflagration, or like emergency, the City Manager may appoint additional officers and firefighters for temporary service who need not be in the classified service of the City. The officer directly in charge of the fire force shall have control of the stationing and other disposition of the force under rules and regulations as he or she may establish with the approval of the City Manager.

(A) On and after ~~January 1, 1954~~[UPATE TO APPROPRIATE EFFECTIVE DATE], the Chief of the Fire Division of the City of Hamilton, Ohio, shall ~~divide the uniform force of said fire force into not less than two platoons.~~

~~The Chief shall keep a platoon of the uniform force on duty twenty four consecutive hours, after which the platoon serving twenty four hours shall be allowed to remain off duty at least twenty-four consecutive hours. Each individual member of the platoons, in addition to receiving a minimum of twenty four hours off duty in each period of forty eight hours, shall receive an additional period of twenty four consecutive hours off duty in each period of six days so that no individual member shall be on duty more than a total of ninety six hours in each consecutive period of twelve days each.~~

~~In the discretion of the Chief of the Fire Division, the fire force may be divided into a three platoon system, wherein the members work twenty four consecutive hours immediately followed by forty eight consecutive hours off duty,~~organize and direct the staffing of the force to maintain staffing for the emergency and administrative duties of the department; and in order to carry out the terms of this section, the Council of the City of Hamilton, Ohio, shall levy an additional tax outside of any legal limitations for Fire Division purposes at a rate of one mill (\$.001) for each one dollar

(\$1.00) of valuation, which amounts to ten cents (\$.010) for each one hundred dollars (\$100.00) of valuation



Founded 1791

**Hamilton Fire Department**  
Mark F. Mercer, Chief

77 Pershing Avenue  
Hamilton, Ohio 45011  
513.785.7500  
Fax 513.867.7321

June 24, 2020

To: J Scott Scrimizzi, Executive Director of Public Safety

Director Scrimizzi, On May 11, 2020 I submitted to you a proposal for a revision to the Section 12.03 of the city charter as part of the 5-year charter review. Following two hearings of the Charter Review Commission, a recommendation for a revision to Section 12.03 of the city charter has been approved by the commission and will be presented to City Council. I attended both meetings which discussed the proposed change, and in the course of that I reviewed public comments and letters addressed to the commission.

After the proposal was approved, I reached out to Joe Schutte, retired Chief, to understand his concerns and the reason he submitted a letter opposing the change and asking the commission to reconsider the proposal. Based on our conversation and the notes below, I would like to respectfully submit the proposal below for consideration of City Council. Chief Schutte's concerns were that the intent of the voters in 1954 were at risk as well as the purpose of the levy funding which was approved. My revised proposal reflects retaining the language in providing fire coverage and three platoons. Clearly, there was some room to improve the clarity of the recommendation and to assure voters that they are voting to improve the opportunity for services, not to reduce them.

There are several reasons for which I recommend the change below.

The current charter describes a scheduling procedure which is outdated, and which is not applied as described in the charter. I feel it is important to deconflict antiquated charter provisions and actual practice. Effective April 1, 1984, Ohio Revised Codes, Section 4117.03 (A)(4), gives public employees the right to:

Bargain collectively with their public employers to determine wages, hours, terms and conditions of employment and the continuation, modification, or deletion of an existing provision of a collective bargaining agreement, and enter into collective bargaining agreements;

Providing a work schedule by charter is not consistent with the provision of state law. The schedule in the fire division has not followed the provisions of the charter in my 31-year career, beginning in February of 1989.

### 12.03 Fire Force

The City shall maintain a fire force consisting of an officer in charge thereof and of such number of other officers, firefighters and employees as may be fixed in accordance with the provisions of Section 5.09 of this Charter. In case of riot, conflagration, or like emergency, the City Manager may appoint additional officers and firefighters for temporary service who need not be in the classified service of the City. The officer directly in charge of the fire force shall have control of the stationing and other disposition of the force under rules and regulations as he or she may establish with the approval of the City Manager.

(A) On and after January 1, 1954, the Chief of the Fire Division of the City of Hamilton, Ohio, shall divide the uniform force of said fire force into not less than two platoons.

~~The Chief shall keep a platoon of the uniform force on duty twenty four consecutive hours, after which the platoon serving twenty four hours shall be allowed to remain off duty at least twenty-four consecutive hours. Each individual member of the platoons, in addition to receiving a minimum of twenty four hours off duty in each period of forty eight hours, shall receive an additional period of twenty four consecutive hours off duty in each period of six days so that no individual member shall be on duty more than a total of ninety six hours in each consecutive period of twelve days each.~~

In the discretion of the Chief of the Fire Division, the fire force may be divided into a three platoon system, ~~wherein the members work twenty four consecutive hours immediately followed by forty eight consecutive hours off duty~~, and in order to carry out the terms of this section, the Council of the City of Hamilton, Ohio, shall levy an additional tax outside of any legal limitations for Fire Division purposes at a rate of one mill (\$.001) for each one dollar (\$1.00) of valuation, which amounts to ten cents (\$0.10) for each one hundred dollars (\$100.00) of valuation.

Respectfully submitted,

Mark F. Mercer, Chief



Founded 1791

**Hamilton Fire Department**  
Mark F. Mercer, Chief

77 Pershing Avenue  
Hamilton, Ohio 45011  
513.785.7500  
Fax 513.867.7321

July 14, 2020

Mayor and council,

I have proposed a revision to section 12.03 of the city charter. The voters chose to support the current language, which became effective on January 1, 1954. The current charter language includes several components; a minimum scheduling structure, a discretionary scheduling structure, and funding to accomplish that. There have been unimaginable changes in the fire service in the past 66 years since this language was approved. Reviewing the earliest annual report, from 1957, fire calls increased from 1,456 to 1,546 in 1957. That was an “all-time record” according to Chief George Schlotterberck. The life squad made 705 calls that year.

In 2019, each fire and EMS unit made more calls than the entire department did in 1957. The department responded to 14,404 calls for service, and 12,392 of those were for emergency medical calls. As we look at the demands for service in our department, they have grown. The model of 1954 is not serving the citizens as well as it did 66 years ago. I have outlined several reasons for the proposed change in the following pages. Our department is working hard, and that is a credit to the hard-working men and women who staff our fire apparatus and medic units every day. They take pride in the work they do and in the service that they provide to our citizens. Our citizens are right to take pride in their public servants, as well.

To be clear, our firefighter and paramedics are a necessary and important part of our city. That staffing must be maintained continuously, and where there is extra need, additional staffing should be added. The current 24-on, 48-off schedule fills that need well, though there is opportunity to improve services to our citizens when they need it most. As we prepared for 2020, council recognized that need. You approved funding recommended by the city manager in late 2019 to increase daily staffing on our medic units.

Please consider the following discussion as we plan into the future for providing excellent service to our citizens and as we work to make our city charter current and reflective of today’s public service environment.

## Reasons for the charter change proposal

The charter amendment should be adopted for the following reasons:

- 1) The current fire department schedule is not consistent with the schedule approved by voters. It has been reduced from 56 hours per week to 48 hours through the collective bargaining process.
- 2) The current fire department schedule, including work hours, is subject to collective bargaining provisions under Ohio Revised Code, Chapter 4117 which was not in place when the 1954 scheduling language was approved by voters.

## The schedule is not consistent with the 1954 scheduling language

The 1954 charter language provided for a two-platoon system working the following hours:

- 24 hours on duty then 24 hours off duty
- One additional day off in every six days period
- Maximum of 96 hours in 12 days

That schedule, prescribed by charter, provided for a 56-hour work week.

The three-platoon system followed a different schedule which was scheduled as follows:

- 24 hours on duty
- 48 hours off duty
- No additional scheduled days off

That schedule, prescribed by charter, provided for a 56-hour work week.

The 1954 charter language provided several provisions. Among them are:

- A structure for a two-platoon system
- A discretionary structure for a three-platoon system
- Funding for the discretionary three-platoon system

In the 1972 Agreement on Working Policy Between the City of Hamilton and Local 20 International Association of Firefighters (AFL-CIO) 1972, the work week in Article VII, Hours of Work as 24 hours of duty in an average work week of 56 hours. Subsequent agreements have reduced the work week. In practice, employees in the fire division do not work either schedule as approved by voters. From the point that the work week was reduced below that outlined by city charter, the contract has conflicted with the charter. Both labor and management have agreed to those terms.

The actual work week in the collective bargaining agreement between the city and the firefighters' union has been incrementally reduced to the current 48-hour work week. That was done beginning as early as 1981, reducing the 56-hour schedule approved by the voters to 53.

## Public Employee Collective Bargaining rights

The 1954 scheduling language predated applicable labor regulations and general laws of the state.

On April 1, 1984 Ohio's Public Employee Collective Bargaining Law, Chapter 4117 of the Ohio Revised Code, granted public employees the right to bargain collectively for hours of employment, among other mandatory subjects of bargaining. This general law enacted by the General Assembly of Ohio makes it clear that hours of work are subject to bargaining and obviates the need for work schedule provisions found in the charter provision of 1954.

Provisions of section 12.03 of the city charter related to the work schedule have been made moot by ORC 4117.10 (A), which states, in part "An agreement between a public employer and an exclusive representative entered into pursuant to this chapter governs wages, hours, and terms and conditions of public employment covered by the agreement."

Provisions of section 12.03 of the city charter provided a work week reduction during a period that predated public employee collective bargaining. With the passage of ORC 4117, work hours are subject to negotiation between the parties and no longer need to be enshrined in an outdated charter provision.

## Proposed charter language revision

### 12.03 Fire Force

The City shall maintain a fire force consisting of an officer in charge thereof and of such number of other officers, firefighters and employees as may be fixed in accordance with the provisions of Section 5.09 of this Charter. In case of riot, conflagration, or like emergency, the City Manager may appoint additional officers and firefighters for temporary service who need not be in the classified service of the City. The officer directly in charge of the fire force shall have control of the stationing and other disposition of the force under rules and regulations as he or she may establish with the approval of the City Manager.

(A) On and after January 1, 1954, the Chief of the Fire Division of the City of Hamilton, Ohio, shall divide the uniform force of said fire force into not less than two platoons.

In the discretion of the Chief of the Fire Division, the fire force may be divided into a three platoon system, and in order to carry out the terms of this section, the Council of the City of Hamilton, Ohio, shall levy an additional tax outside of any legal limitations for Fire Division purposes at a rate of one mill (\$.001) for each one dollar (\$1.00) of valuation, which amounts to ten cents (\$.10) for each one hundred dollars (\$100.00) of valuation.

### 12.03 Fire Force

The City shall maintain a fire force consisting of an officer in charge thereof and of such number of other officers, firefighters and employees as may be fixed in accordance with the provisions of Section 5.09 of this Charter. In case of riot, conflagration, or like emergency, the City Manager may appoint additional officers and firefighters for temporary service who need not be in the classified service of the City. The officer directly in charge of the fire force shall have control of the stationing and other disposition of the force under rules and regulations as he or she may establish with the approval of the City Manager.

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~~The Chief shall keep a platoon of the uniform force on duty twenty four consecutive hours, after which the platoon serving twenty four hours shall be allowed to remain off duty at least twenty-four consecutive hours. Each individual member of the platoons, in addition to receiving a minimum of twenty four hours off duty in each period of forty eight hours, shall receive an additional period of twenty four consecutive hours off duty in each period of six days so that no individual member shall be on duty more than a total of ninety-six hours in each consecutive period of twelve days each.~~

In the discretion of the Chief of the Fire Division, the fire force may be divided into a three platoon system, ~~wherein the members work twenty four consecutive hours immediately followed by forty eight consecutive hours off duty~~, and in order to carry out the terms of this section, the Council of the City of Hamilton, Ohio, shall levy an additional tax outside of any legal limitations for Fire Division purposes at a rate of one mill (\$.001) for each one dollar (\$1.00) of valuation, which amounts to ten cents (\$0.10) for each one hundred dollars (\$100.00) of valuation.

**EMERGENCY ORDINANCE NO. \_\_\_\_\_**

**AN EMERGENCY ORDINANCE TO PROVIDE FOR THE SUBMISSION TO THE ELECTORS OF THE CITY OF HAMILTON, OHIO, AT THE GENERAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2020, A PROPOSED AMENDMENT TO THE CITY CHARTER AMENDING THE PROVISIONS OF ARTICLE XII, SECTION 12.03, RELATING TO FIRE FORCE, AS SET FORTH IN FULL IN THIS EMERGENCY ORDINANCE.**

WHEREAS, the existing Charter of the City of Hamilton, Ohio has been reviewed by the Charter Review Commission and the Council of the City of Hamilton, Ohio, and Council has recommended that Section 12.03 of the Charter be amended; and

WHEREAS, Section 12.03 of the current Charter of the City of Hamilton, Ohio provides as follows:

**ARTICLE XII  
POLICE AND FIRE SERVICE**

**12.03 Fire Force**

The City shall maintain a fire force consisting of an officer in charge thereof and of such number of other officers, firefighters and employees as may be fixed in accordance with the provisions of Section 5.09 of this Charter. In case of riot, conflagration, or like emergency, the City Manager may appoint additional officers and firefighters for temporary service who need not be in the classified service of the City. The officer directly in charge of the fire force shall have control of the stationing and other disposition of the force under rules and regulations as he or she may establish with the approval of the City Manager.

(A) On and after January 1, 1954, the Chief of the Fire Division of the City of Hamilton, Ohio, shall divide the uniform force of said fire force into not less than two platoons. The Chief shall keep a platoon of the uniform force on duty twenty-four consecutive hours, after which the platoon serving twenty-four hours shall be allowed to remain off duty at least twenty-four consecutive hours. Each individual member of the platoons, in addition to receiving a minimum of twenty-four hours off duty in each period of forty-eight hours, shall receive an additional period of twenty-four consecutive hours off duty in each period of six days so that no individual member shall be on duty more than a total of ninety-six hours in each consecutive period of twelve days each.

In the discretion of the Chief of the Fire Division, the fire force may be divided into a three platoon system, wherein the members work twenty-four consecutive hours immediately followed by forty-eight consecutive hours off duty, and in order to carry out the terms of this section, the Council of the City of Hamilton, Ohio, shall levy an additional tax outside of any legal limitations for Fire Division purposes at a rate of one mill (\$.001) for each one dollar (\$1.00) of valuation, which amounts to ten cents (\$.10) for each one hundred dollars (\$100.00) of valuation.

; and

WHEREAS, based upon the recommendation of the Charter Review Commission, at least two-thirds of this Council, as required by Section 9 of Article XVIII of the Ohio Constitution, desires to submit an amendment to the Charter of the City of Hamilton, Ohio to the electors of the City at the next general election to be held on Tuesday, November 3, 2020; and

WHEREAS, the subject matter herein constitutes an emergency in that it provides for the immediate preservation of the public peace, property, safety and welfare of the community in that such emergency

**Emergency Ordinance No. \_\_\_\_\_ (cont'd)**

measure shall permit the election authorities and other officials named in this ordinance to take the necessary actions and to make preparation for the submission of the amendment to the electors of the City at the general election to be held on Tuesday, November 3, 2020;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hamilton, Ohio:

SECTION I: That the proposed amendment to Article XII, Section 12.03, of the Charter of the City of Hamilton, Ohio, which provides the structure of the Fire Force, shall be submitted to the electors of the City of Hamilton, Ohio for adoption or rejection at the next general election to be held on Tuesday, November 3, 2020. A vote of the majority of the electors of the City of Hamilton, Ohio, voting on the proposed amendment, is required for adoption of said amendment. The proposed amendment is to amend Section 12.03 of the Charter of the City of Hamilton, Ohio, with the proposed amended Section 12.03 to read as follows:

**ARTICLE XII  
POLICE AND FIRE SERVICE**

**12.03 Fire Force**

The City shall maintain a fire force consisting of an officer in charge thereof and of such number of other officers, firefighters and employees as may be fixed in accordance with the provisions of Section 5.09 of this Charter. In case of riot, conflagration, or like emergency, the City Manager may appoint additional officers and firefighters for temporary service who need not be in the classified service of the City. The officer directly in charge of the fire force shall have control of the stationing and other disposition of the force under rules and regulations as he or she may establish with the approval of the City Manager.

On and after January 1, 1954, the Chief of the Fire Division of the City of Hamilton, Ohio, shall divide the uniform force of said fire force into not less than two platoons. In the discretion of the Chief of the Fire Division, the fire force may be divided into a three platoon system, and in order to carry out the terms of this section, the Council of the City of Hamilton, Ohio, shall levy an additional tax outside of any legal limitations for Fire Division purposes at a rate of one mill (\$.001) for each one dollar (\$1.00) of valuation, which amounts to ten cents (\$.10) for each one hundred dollars (\$100.00) of valuation.

SECTION II: That the City Clerk is hereby directed to certify the amendment as set forth above to the Board of Elections of Butler County, Ohio for submission to the electors of the City of Hamilton, Ohio, at the next general election to be held on Tuesday, November 3, 2020, to be conducted at the usual places of holding and conducting elections in the City of Hamilton and between the usual hours of opening and closing the polls on election days as required by the Constitution and the laws of the State of Ohio.

SECTION III: That the amendment herein set forth shall be submitted to the electors in such a way so as to allow votes thereon to be cast separately from votes cast on any other question. Said amendment shall be designated on the ballot by its descriptive title as hereinafter set forth or in such other form as shall be determined by the election authorities. The adoption of such amendment by its descriptive title shall have the effect of adopting its text in full as set forth in this ordinance. The form of ballot to be used at said general election shall be as follows or in such other form as shall be determined by the election authorities.

Emergency Ordinance No. \_\_\_\_\_ (cont'd)

**OFFICIAL BALLOT**

General Election  
November 3, 2020  
City of Hamilton, Ohio

**PROPOSED AMENDMENT TO THE CHARTER OF THE CITY OF  
HAMILTON, OHIO**

Submitted by the City Council

A Majority Affirmative Vote Is Necessary for Passage

**THE QUESTION**

Shall Article XII, Section 12.03, of the Charter of the City of Hamilton, Ohio be amended as follows:

“The City shall maintain a fire force consisting of an officer in charge thereof and of such number of other officers, firefighters and employees as may be fixed in accordance with the provisions of Section 5.09 of this Charter. In case of riot, conflagration, or like emergency, the City Manager may appoint additional officers and firefighters for temporary service who need not be in the classified service of the City. The officer directly in charge of the fire force shall have control of the stationing and other disposition of the force under rules and regulations as he or she may establish with the approval of the City Manager.

On and after January 1, 1954, the Chief of the Fire Division of the City of Hamilton, Ohio, shall divide the uniform force of said fire force into not less than two platoons. In the discretion of the Chief of the Fire Division, the fire force may be divided into a three platoon system, and in order to carry out the terms of this section, the Council of the City of Hamilton, Ohio, shall levy an additional tax outside of any legal limitations for Fire Division purposes at a rate of one mill (\$.001) for each one dollar (\$1.00) of valuation, which amounts to ten cents (\$.10) for each one hundred dollars (\$100.00) of valuation.” ?

\_\_\_\_\_  
For the Amendment

\_\_\_\_\_  
Against the Amendment

SECTION IV: That the City Clerk shall cause the full text of this ordinance and the proposed Charter amendment contained herein to be published once a week for not less than two (2) consecutive weeks in the **Journal News**, a newspaper published in the City of Hamilton, Ohio, with the first publication being at least fifteen (15) days prior to the election at which the proposed Charter amendment is to be submitted to the electors of the City of Hamilton as authorized by Section 9 of Article XVIII of the Ohio Constitution and Section 731.211 of the Ohio Revised Code.

SECTION V: That the Board of Elections of Butler County, Ohio, shall certify to the City of Hamilton, Ohio, the result of the vote on said amendment, and if said amendment is approved by a majority

**Emergency Ordinance No. \_\_\_\_\_ (cont'd)**

vote of those voting thereon, Article XII, Section 12.03, as amended, shall become a part of the Charter of the City of Hamilton, Ohio. Said Board of Elections shall, if the amendment is so approved by the electors, deliver a certified copy of such amendment to the Secretary of State, as provided by Section 9 of Article XVIII of the Ohio Constitution.

SECTION VI: That the Board of Elections of Butler County, Ohio, be and it is hereby directed to give public notice of the time and place of holding such election by publication of such notice at least ten (10) days prior to the date of such election in a newspaper published and of general circulation in the City of Hamilton, Ohio, and to give such other notice, if any, as may be required by law and to take such other actions and to make such arrangements as is necessary for the conduct of the election with respect to the proposed Charter amendment authorized by this ordinance. That the City Manager and Director of Law are hereby authorized to take any other actions required to submit such amendment to the electors of the City on the date fixed in this ordinance.

SECTION VII: This ordinance is hereby declared to be an emergency measure for the reasons set forth in the preamble hereto and shall take force from and after its passage.

PASSED: \_\_\_\_\_

Effective Date: \_\_\_\_\_

\_\_\_\_\_  
Mayor

ATTEST: \_\_\_\_\_

City Clerk

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk for the City of Hamilton, Butler County, Ohio, hereby certify that the foregoing Emergency Ordinance No. \_\_\_\_\_ was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in the lobby of City Hall for a period of ten days. POSTED: \_\_\_\_\_.

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk of the City of Hamilton, Ohio, State of Ohio, I further certify that the foregoing Emergency Ordinance No. \_\_\_\_\_ was passed by a two-thirds majority of the members of the Council of the City of Hamilton, Ohio with \_\_\_\_\_ Council Members voting in favor of and \_\_\_\_\_ Council Members voting against the Emergency Ordinance, and that this is a true and exact copy of the Emergency Ordinance adopted by the Council of the City of Hamilton on August 12, 2020.

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**

Date: \_\_\_\_\_

## City Council Meeting Staff Report

**Report To:** The Honorable Mayor Patrick Moeller & Members of the City Council

**Report From:** The Charter Review Commission  
Nicholas Garuckas, City Clerk

**Agenda Item:** An Emergency Ordinance to provide for the submission to the electors of the City of Hamilton, Ohio, at the General Election to be held on Tuesday, November 3, 2020, a proposed amendment to the City Charter the provisions of Article XVIII, Section 18.10, Equal Employment Opportunity; Prohibiting Discrimination; Gender, as set forth in full in this ordinance.

<p><b>Approvals/Reviews</b> <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i></p>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	<p><b>Related Strategic Goal(s)</b></p> <input type="checkbox"/> <b>I</b> Realize new investments <input type="checkbox"/> <b>J</b> Increase gross wages <input type="checkbox"/> <b>P</b> Increase property values <input type="checkbox"/> <b>R</b> Generate recreational investments <input type="checkbox"/> <b>E</b> Engage citizens in activities <input checked="" type="checkbox"/> <b>O</b> General operations
<p><b>Ordinance or Resolution</b> <i>Emergency Ordinance</i></p>	<input checked="" type="checkbox"/> 1 <sup>st</sup> Reading Date: 7-22-2020 <input checked="" type="checkbox"/> 2 <sup>nd</sup> Reading Date: 8-12-2020 <input type="checkbox"/> Resolution Date: <input checked="" type="checkbox"/> Public Hearing Date: 7-22-2020	
<p><b>Prior Action/Review</b> <i>Please note if this item was discussed on a prior Council or other agenda</i></p>	<p><b>City Council (or other):</b> Caucus Report 6-24-2020 City Council Meeting</p>	
<p><b>Contract</b></p>	<input type="checkbox"/> Contract Required	<input checked="" type="checkbox"/> Additional Document(s) Attached
<p><b>Fiscal Impact</b></p>	<p>Budgeted: Less than \$1,000</p>	<p><i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i></p>
	<p>Expenditure: \$</p>	
	<p>Source Funds:</p>	

**Policy Issue**

Does City Council wish to adopt legislation to submit the proposed amendment of Article XVIII, Miscellaneous Provisions, Section 18.10, Equal Employment Opportunity; Prohibiting Discrimination; Gender, to the Charter of the City of Hamilton, Ohio to the electors at the next general election to include sexual orientation?

**Policy Alternative(s)**

Council may choose not to adopt legislation to submit proposed amendment of Article XVIII, Miscellaneous Provisions, Section 18.10, Equal Employment Opportunity: Prohibiting Discrimination; Gender, to the Charter of City of Hamilton, Ohio to the electors at the next general election. If City Council decides not to propose the amendment to Article XVIII, then the equal opportunity hiring language will remain the same and not explicitly cover sexual orientation.



## **Charter Review Commission and Staff Recommendation**

Staff recommends that Council receive this report and adopt legislation to submit proposed amendment to Article XVIII, Miscellaneous Provisions, Section 18.10, Equal Employment Opportunity: Prohibiting Discrimination; Gender, of the Charter of the City of Hamilton, Ohio to the electors at the next general election. Particularly, it is recommended by the Charter Review Commission and City Staff that the Charter be amended to include sexual orientation as a category to explicitly protect against discrimination as it relates to the hiring practices of the City of Hamilton.

## **Statutory/Policy Authority**

- Section 9, Article XVIII, of the Ohio Constitution.
- Section 3.09, Legislative Procedure, of the Charter of the City of Hamilton.
- Article XVIII, Miscellaneous Provisions, Section 18.10, Equal Employment Opportunity: Prohibiting Discrimination; Gender.

## **Fiscal Impact Summary**

There is no substantial fiscal impact as these amendments are procedural to the Charter of the City of Hamilton, Ohio. The amendment, if approved, will outline explicitly that when hiring the City of Hamilton will not discriminate against an applicant because of their sexual orientation. It is required that the ordinance be posted in the local newspaper and filing fees may also be due to the Butler County Board of Elections so this issue can be placed on the November 2020 ballot, if passed. These costs are expected to be less than \$1,000.00.

## **Background Information**

The Charter Review Commission heard a proposed amendment to Article XVIII, Miscellaneous Provisions, Section 18.10, Equal Employment Opportunity: Prohibiting Discrimination; Gender, from the Hamilton Pride Organization as represented by their President Taylor Stone-Welch. The Charter Review Commission heard the request at their regular meeting on June 8, 2020.

This amendment, if approved, will provide equal opportunity in City employment for all persons and prevent discrimination in City employment because of race, color, religion, sex national origin, handicap, ancestry, or age. The Hamilton Pride Organization asked the Charter Review Commission to update this language to include sexual orientation and gender identity. The full request letter to the Charter Review Commission from Hamilton Pride is attached.

## **Attached Information**

- Request Letter to the Charter Review Commission from Hamilton Pride
- Redline of proposed amended language to Article XVIII, Miscellaneous Provisions, Section 18.10, Equal Employment Opportunity: Prohibiting Discrimination; Gender

## **Copies Provided to:**

The Charter Review Commission





To the Charter Review Commission:

Hamilton Ohio Pride is a very new organization in the City of Hamilton, but our organization has grown out of an organic and sincere desire for LGBTQ visibility and equality in southwest Ohio. From the early stages of our planning, we saw an enthusiastic and positive response from those in and around Hamilton. As you may know, we were planning to hold our inaugural Hamilton Pride in June 2020, an event we were forced to cancel due to concerns regarding COVID-19.

Though we cannot gather and celebrate as a community, the Hamilton Pride Board is proud to advocate for the LGBTQ community in Hamilton in other ways. We recommend the inclusion of both “sexual orientation” and “gender identity” as protected statuses in section 18.10 of the City Charter titled “Equal Employment Opportunity; Prohibiting Discrimination; Gender”

(A) The City of Hamilton shall provide equal opportunity in City employment for all persons.

(B) Discrimination in City employment is prohibited because of race, color, religion, sex, **sexual orientation, gender identity**, national origin, handicap, ancestry, or age, except that age limitations may be required for original appointments to the positions of police officer and firefighter to the extent permitted by law.

(C) Whenever this Charter uses words of one gender, such words shall be construed to include **all** other genders. Such use is for convenience purposes only and shall not be construed to be discriminatory based upon sex.

According to [Human Rights Watch](#), a 2017 survey found that one in four LGBTQ people has experienced discrimination based on their sexual orientation or gender identity in 2016 alone. Currently, [only 22 states](#) explicitly prohibit discrimination along these lines, and Ohio is not one of them ([view the LGBT workplace factsheet here](#)).

While members of our community regularly face discrimination based on sexual orientation, those with non-cis gender identities are often the most vulnerable to such discrimination. “Cis” is a term that means one’s gender and sexual identity are matched, but for people who are transgender, nonbinary, gender fluid, etc., this is not their experience.

[The 2015 U.S. Transgender Survey](#) found that “nearly one-third (29%) of respondents were lived in poverty, compared to 14% in the U.S. population.” The community had a 15% unemployment rate (compared to the 5% national average at the time, and 30% “who had a job reported being fired, denied a promotion, or experiencing some other form of mistreatment in the workplace due to their gender identity or expression, such as being verbally harassed or physically or sexually assaulted at work.”

But there is good news, as well. The [Human Rights Campaign](#) lists at least 23 cities and counties in the state of Ohio which prohibit discrimination the basis of gender identity. We urge that the City of Hamilton be added to this list so that our community can send a message to the world that we are inclusive and welcoming to people of all identities, orientations, and experiences.

Members of the Hamilton Pride board would be happy to answer any questions you may have or provide further clarity: [HamiltonOhioPride@gmail.com](mailto:HamiltonOhioPride@gmail.com). Thank you for your support in this matter,

Taylor Stone-Welch, Chair  
& Jordan Schotz, Treasurer

### **18.10 Equal Employment Opportunity; Prohibiting Discrimination; Gender**

(A) The City of Hamilton shall provide equal opportunity in City employment for all persons.

(B) Discrimination in City employment is prohibited because of race, color, religion, sex, **sexual orientation, gender identity**, national origin, handicap, ancestry, or age, except that age limitations may be required for original appointments to the positions of police officer and firefighter to the extent permitted by law.

(C) Whenever this Charter uses words of one gender, such words shall be construed to include **all** other genders. Such use is for convenience purposes only and shall not be construed to be discriminatory based upon sex.

**EMERGENCY ORDINANCE NO. \_\_\_\_\_**

**AN EMERGENCY ORDINANCE TO PROVIDE FOR THE SUBMISSION TO THE ELECTORS OF THE CITY OF HAMILTON, OHIO, AT THE GENERAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2020, A PROPOSED AMENDMENT TO THE CITY CHARTER THE PROVISIONS OF ARTICLE XVIII, MISCELLANEOUS PROVISIONS, SECTION 18.10, EQUAL EMPLOYMENT OPPORTUNITY; PROHIBITING DISCRIMINATION; GENDER, AS SET FORTH IN FULL IN THIS EMERGENCY ORDINANCE.**

WHEREAS, the existing Charter of the City of Hamilton, Ohio has been reviewed by the Charter Review Commission and the Council of the City of Hamilton, Ohio, and Council has recommended that Article XVIII of the Charter be amended; and

WHEREAS, based upon that review The Charter Review Commission has recommended that City Council pass an ordinance to submit a proposed amendment to the Charter to the electors, which proposed amendment will amend Article XVIII, Miscellaneous Provisions, Section 18.10, Equal Employment Opportunity; Prohibiting Discrimination; Gender; and

WHEREAS, Article XVIII, Section 18.10 of the current Charter of the City of Hamilton, Ohio provides as follows:

**ARTICLE XVIII**

**MISCELLANEOUS PROVISIONS**

**18.10 Equal Employment Opportunity; Prohibiting Discrimination; Gender**

(A) The City of Hamilton shall provide equal opportunity in City employment for all persons.

(B) Discrimination in City employment is prohibited because of race, color, religion, sex, national origin, handicap, ancestry, or age, except that age limitations may be required for original appointments to the positions of police officer and firefighter to the extent permitted by law.

(C) Whenever this Charter uses words of one gender, such words shall be construed to include the other genders. Such use is for convenience purposes only and shall not be construed to be discriminatory based upon sex.

; and

WHEREAS, this Council has recommended that Article XVIII, Section 18.10, Miscellaneous Provisions, of the Hamilton Charter, which governs the fair hiring practices of the City of Hamilton, Ohio Government. It states that the City of Hamilton will provide equal opportunity in City employment for all persons and prevent discrimination in City employment because of race, color, religion, sex, national origin, handicap, ancestry, or age. The Hamilton Pride Organization asked the Charter Review Commission to update this language to include sexual orientation and gender identity; and

WHEREAS, based upon the recommendation of the Charter Review Commission, at least two-thirds of this Council, as required by Section 9 of Article XVIII of the Ohio Constitution, desires to submit an amendment to the Charter of the City of Hamilton, Ohio to the electors of the City at the next general election to be held on Tuesday, November 3, 2020; and

WHEREAS, the subject matter herein constitutes an emergency in that it provides for the immediate preservation of the public peace, property, safety and welfare of the community in that such emergency measure shall permit the election authorities and other officials named in this ordinance to take the necessary actions and to make preparation for the submission of the amendment to the electors of the City at the general election to be held on Tuesday, November 3, 2020;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hamilton, Ohio:

Emergency Ordinance No. \_\_\_\_\_ (cont'd)

SECTION I: That the proposed amendment to Article XVIII, Section 18.10, of the Charter of the City of Hamilton, Ohio, which provides the structure of the anti-discrimination policy in the hiring practices of the City of Hamilton, Ohio Government, shall be submitted to the electors of the City of Hamilton, Ohio for adoption or rejection at the next general election to be held on Tuesday, November 3, 2020. A vote of the majority of the electors of the City of Hamilton, Ohio, voting on the proposed amendment, is required for adoption of said amendment. The proposed amendment is to amend Article XVIII, Miscellaneous Provisions, Section 18.10, of the Charter of the City of Hamilton, Ohio, with the proposed amendment Section 18.10 to read as follows:

**ARTICLE XVIII**

**MISCELLANEOUS PROVISIONS**

**18.10 Equal Employment Opportunity; Prohibiting  
Discrimination; Gender**

- (A) The City of Hamilton shall provide equal opportunity in City employment for all persons.
- (B) Discrimination in City employment is prohibited because of race, color, religion, sex, sexual orientation, gender identity, national origin, handicap, ancestry, or age, except that age limitations may be required for original appointments to the positions of police officer and firefighter to the extent permitted by law.
- (C) Whenever this Charter uses words of one gender, such words shall be construed to include all other genders. Such use is for convenience purposes only and shall not be construed to be discriminatory based upon sex.

SECTION II: That the City Clerk is hereby directed to certify the amendment as set forth above to the Board of Elections of Butler County, Ohio for submission to the electors of the City of Hamilton, Ohio, at the next general election to be held on Tuesday, November 3, 2020, to be conducted at the usual places of holding and conducting elections in the City of Hamilton and between the usual hours of opening and closing the polls on election days as required by the Constitution and the laws of the State of Ohio.

SECTION III: That the amendment herein set forth shall be submitted to the electors in such a way so as to allow votes thereon to be cast separately from votes cast on any other question. Said amendment shall be designated on the ballot by its descriptive title as hereinafter set forth or in such other form as shall be determined by the election authorities. The adoption of such amendment by its descriptive title shall have the effect of adopting its text in full as set forth in this ordinance. The form of ballot to be used at said general election shall be as follows or in such other form as shall be determined by the election authorities.

**OFFICIAL BALLOT**

General Election  
November 3, 2020  
City of Hamilton, Ohio

**PROPOSED AMENDMENT TO THE CHARTER OF THE CITY OF  
HAMILTON, OHIO**  
Submitted by the City Council

A Majority Affirmative Vote Is Necessary for Passage

**THE QUESTION**

Shall Article XVIII, Section 18.10 of the Charter of the City of Hamilton, Ohio be amended as follows to include language prohibiting discrimination in employment based on sexual orientation and gender identity:

**“ARTICLE XVIII**

**MISCELLANEOUS PROVISIONS**

**18.10 Equal Employment Opportunity; Prohibiting Discrimination; Gender**

(A) The City of Hamilton shall provide equal opportunity in City employment for all persons.

(B) Discrimination in City employment is prohibited because of race, color, religion, sex, sexual orientation, gender identity, national origin, handicap, ancestry, or age, except that age limitations may be required for original appointments to the positions of police officer and firefighter to the extent permitted by law.

(C) Whenever this Charter uses words of one gender, such words shall be construed to include all other genders. Such use is for convenience purposes only and shall not be construed to be discriminatory based upon sex.” ?

\_\_\_\_\_  
For the Amendment

\_\_\_\_\_  
Against the Amendment

SECTION IV: That the City Clerk shall cause the full text of this ordinance and the proposed Charter amendment contained herein to be published once a week for not less than two (2) consecutive weeks in the **Journal News**, a newspaper published in the City of Hamilton, Ohio, with the first publication being at least fifteen (15) days prior to the election at which the proposed Charter amendment is to be submitted to the electors of the City of Hamilton as authorized by Section 9 of Article XVIII of the Ohio Constitution and Section 731.211 of the Ohio Revised Code.

SECTION V: That the Board of Elections of Butler County, Ohio, shall certify to the City of Hamilton, Ohio, the result of the vote on said amendment, and if said amendment is approved by a majority vote of those voting thereon, Article XVIII, Section 18.10, as amended, shall become a part of the Charter of the City of Hamilton, Ohio. Said Board of Elections shall, if the amendment is so approved by the electors, deliver a certified copy of such amendment to the Secretary of State, as provided by Section 9 of Article XVIII of the Ohio Constitution.

SECTION VI: That the Board of Elections of Butler County, Ohio, be and it is hereby directed to give public notice of the time and place of holding such election by publication of such notice at least ten (10) days prior to the date of such election in a newspaper published and of general circulation in the City of Hamilton, Ohio, and to give such other notice, if any, as may be required by law and to take such other actions and to make such arrangements as is necessary for the conduct of the election with respect to the proposed Charter amendment authorized by this ordinance. That the City Manager and Director of Law are

**Emergency Ordinance No. \_\_\_\_\_ (cont'd)**

hereby authorized to take any other actions required to submit such amendment to the electors of the City on the date fixed in this ordinance.

SECTION VII: This ordinance is hereby declared to be an emergency measure for the reasons set forth in the preamble hereto and shall take force from and after its passage.

PASSED: \_\_\_\_\_

Effective Date: \_\_\_\_\_

\_\_\_\_\_  
Mayor

ATTEST: \_\_\_\_\_  
City Clerk

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk for the City of Hamilton, Butler County, Ohio, hereby certify that the foregoing Emergency Ordinance No. \_\_\_\_\_ was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in the lobby of City Hall for a period of ten days. POSTED: \_\_\_\_\_.

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk of the City of Hamilton, Ohio, State of Ohio, I further certify that the foregoing Emergency Ordinance No. \_\_\_\_\_ was passed by a two-thirds majority of the members of the Council of the City of Hamilton, Ohio with \_\_\_\_\_ Council Members voting in favor of and \_\_\_\_\_ Council Members voting against the Emergency Ordinance, and that this is a true and exact copy of the Emergency Ordinance adopted by the Council of the City of Hamilton on August 12, 2020.

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**

Date: \_\_\_\_\_

## City Council Meeting Staff Report

**Report To:** The Honorable Mayor Patrick Moeller & Members of the City Council

**Report From:** The Charter Review Commission  
Nicholas Garuckas, City Clerk

**Agenda Item:** An Emergency Ordinance to provide for the submission to the electors of the City of Hamilton, Ohio, at the General Election to be held on Tuesday, November 3, 2020, a proposed amendment to the City Charter the provisions of Article XVIII, Section 18.11, Charter Review Commission, as set forth in full in this ordinance.

<p><b>Approvals/Reviews</b> <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i></p>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	<p><b>Related Strategic Goal(s)</b></p> <input type="checkbox"/> <b>I</b> Realize new investments <input type="checkbox"/> <b>J</b> Increase gross wages <input type="checkbox"/> <b>P</b> Increase property values <input type="checkbox"/> <b>R</b> Generate recreational investments <input type="checkbox"/> <b>E</b> Engage citizens in activities <input checked="" type="checkbox"/> <b>O</b> General operations
<p><b>Ordinance or Resolution</b> <i>Emergency Ordinance</i></p>	<input checked="" type="checkbox"/> 1 <sup>st</sup> Reading Date: 7-22-2020 <input checked="" type="checkbox"/> 2 <sup>nd</sup> Reading Date: 8-12-2020 <input type="checkbox"/> Resolution Date: <input checked="" type="checkbox"/> Public Hearing Date: 7-22-2020	
<p><b>Prior Action/Review</b> <i>Please note if this item was discussed on a prior Council or other agenda</i></p>	<p><b>City Council (or other):</b> Caucus Report 6-24-2020 City Council Meeting</p>	
<p><b>Contract</b></p>	<input type="checkbox"/> Contract Required	<input checked="" type="checkbox"/> Additional Document(s) Attached
<p><b>Fiscal Impact</b></p>	<p>Budgeted: Less than \$1,000 Expenditure: \$ Source Funds:</p>	<p><i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i></p>

### Policy Issue

Does City Council wish to adopt legislation to submit the proposed amendment of Article XVIII, Miscellaneous Provisions, Section 18.11, Charter Review Commission, to the Charter of the City of Hamilton, Ohio to the electors at the next general election to modify the duties of the Charter Review Commission and Council?

### Policy Alternative(s)

Council may choose not to adopt legislation to submit proposed amendment of Article XVIII, Miscellaneous Provisions, Section 18.11, Charter Review Commission, to the Charter of City of Hamilton, Ohio to the electors at the next general election. If City Council decides not to propose the amendment to Article XVIII, then the language and guidance provided to the Charter Review Commission and City Clerk will remain the same.



## **Charter Review Commission and Staff Recommendation**

Staff recommends that Council receive this report and adopt legislation to submit proposed amendment to Article XVIII, Miscellaneous Provisions, Section 18.11, Charter Review Commission, of the Charter of the City of Hamilton, Ohio to the electors at the next general election. Particularly, it is recommended by the Charter Review Commission and City Staff that the Charter be amended as to provide more detailed guidance of the Charter amendment process and the roles of the Charter Review Commission, the Council, and the City Clerk.

## **Statutory/Policy Authority**

- Section 9, Article XVIII, of the Ohio Constitution.
- Section 3.09, Legislative Procedure, of the Charter of the City of Hamilton.
- Article XVIII, Miscellaneous Provisions, Section 18.11, Charter Review Commission.

## **Fiscal Impact Summary**

There is no substantial fiscal impact as these amendments are procedural to the Charter of the City of Hamilton, Ohio. The amendment, if approved, will outline the establishment of a Charter Review Commission and what authority Council has over the Commission. It also provides guidance on how the City Clerk should carryout Charter amendments. It is required that the ordinance be posted in the local newspaper and filing fees may also be due to the Butler County Board of Elections so this issue can be placed on the November 2020 ballot, if passed. These costs are expected to be less than \$1,000.00.

## **Background Information**

The Charter Review Commission heard a proposed amendment to Article XVIII, Miscellaneous Provisions, Section 18.11, Charter Review Commission, from City Administration as represented by City Clerk Nick Garuckas. The Charter Review Commission heard the request at their regular meetings on June 22, 2020 and June 29, 2020.

Section 1811 is the only section that discusses how the Charter can be changed and sets up the parameters of how the Charter Review Commission will operate. It states that every five (5) years a Charter Review Commission will be held of City residents and that Council can enact a Special Charter Review Commission to study particular topics at any time. It then defines the composition of the Commission. This paragraph is the only description of how to amend the Charter that is currently on record. If approved, the proposed revisions to this section would make the duties of the Charter Review Commission, the Council, and the City Clerk more well defined. The City Clerk proposed these changes as he felt that more description or guidance is needed for future Commissions and Clerks because the current wording leaves too much ambiguity. It was felt that all roles must be more clearly defined so the process can be more effective.

Additionally, he proposed a clause in the Charter amendment process that highlight's Council ability to amend or propose amendments to the electors of the City. This came about after the City was notified of immediate issues with the voting forms that were a part of the Charter in 2018. To fix these issues for the next Council election, Council adopted and sent the needed clerical revisions to the Charter to the electors without the Charter Review Commission in 2018, the last time the Charter was amended. In order to make the Board of Elections filing deadlines a Special Charter Review Commission was not enacted. Since the Charter Review Commission is a recommendation body, it is understood that Council has the final authority to interpret what is presented to the electors and the amendment in 2018 complied with that. Part B of the proposed revisions more clearly outlines Council's ability to do this. However, the Charter Review Commission wanted to make it clear that this process should not be used for large policy revisions to the Charter. For this reason, the Charter Review Commission wanted restrictions placed on this new proposal that highlight that this practice should be used only in cases of clear and immediate need so as not to circumnavigate the authority of the Charter Review Commission itself.



**Attached Information**

- Redline of proposed amended language to Article XVIII, Miscellaneous Provisions, Section 18.11, Charter Review Commission

**Copies Provided to:**

The Charter Review Commission



## ARTICLE XVIII

### MISCELLANEOUS PROVISIONS

#### 18.11 Charter Review ~~Commission~~

(A) Charter Review Commission. On or before February 28, 2005, and every five years thereafter, the Council shall appoint by written motion a Charter Review Commission consisting of not less than nine nor more than fifteen electors of the City to review the City's Charter and to make recommendations, if any, for revisions to the City's Charter to the Council. The Council may also appoint by written motion Special Charter Review Commissions at any time to study and report recommendations to the Council with respect to specific matters. Special Charter Review Commissions shall be composed of not less than five nor more than nine members. The Council may accept or reject the recommendations of Regular Charter Review Commissions and Special Charter Review Commissions, and may submit amendments recommended by Regular Charter Review Commissions or Special Charter Review Commissions to the electors in their original or a revised form.

(B) Charter Amendment by Council. The Council may submit a proposed Charter amendment to the electors without a Regular or Special Charter Review Commission if said amendment is to address an issue in the Charter that has been determined to be immediately hindering the City or City related operations. This amendment must not change the intent of Charter section at issue, only adjust it. The proposed amendment to the Charter shall be read at two separate Council Meetings, one of which shall have a public hearing. The proposed Charter amendment would require a super majority of six Council Members voting in favor of the measure for passage.

(C) If the Council desires to submit amendments recommended by a Regular Charter Review Commission or Special Charter Review Commission under Paragraph A of this Section or amendments under Paragraph B of this Section to the electors, the Council shall pass an ordinance approving the proposed Charter amendments. The City Clerk shall file the amendments with the Butler County Board of Elections for the next available election so the proposed amendments may be voted on by the electors of the City of Hamilton. The City Clerk shall advertise that the proposals are available for public viewing and will provide the public with avenues to inspect the proposals.

**EMERGENCY ORDINANCE NO. \_\_\_\_\_**

**AN EMERGENCY ORDINANCE TO PROVIDE FOR THE SUBMISSION TO THE ELECTORS OF THE CITY OF HAMILTON, OHIO, AT THE GENERAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2020, A PROPOSED AMENDMENT TO THE CITY CHARTER THE PROVISIONS OF ARTICLE XVIII, MISCELLANEOUS PROVISIONS, SECTION 18.11, CHARTER REVIEW COMMISSION, AS SET FORTH IN FULL IN THIS EMERGENCY ORDINANCE.**

WHEREAS, the existing Charter of the City of Hamilton, Ohio has been reviewed by the Charter Review Commission and the Council of the City of Hamilton, Ohio, and Council has recommended that Article XVIII of the Charter be amended; and

WHEREAS, based upon that review The Charter Review Commission has recommended that City Council pass an ordinance to submit a proposed amendment to the Charter to the electors, which proposed amendment will amend Article XVIII, Miscellaneous Provisions, Section 18.11, Charter Review Commission; and

WHEREAS, Article XVIII, Section 18.11 of the current Charter of the City of Hamilton, Ohio provides as follows:

**ARTICLE XVIII**

**MISCELLANEOUS PROVISIONS**

**18.11 Charter Review Commission**

On or before February 28, 2005, and every five years thereafter, the Council shall appoint by written motion a Charter Review Commission consisting of not less than nine nor more than fifteen electors of the City to review the City's Charter and to make recommendations, if any, for revisions to the City's Charter to the Council. The Council may also appoint by written motion Special Charter Review Commissions at any time to study and report recommendations to the Council with respect to specific matters. Special Charter Review Commissions shall be composed of not less than five nor more than nine members. The Council may accept or reject the recommendations of regular Charter Review Commissions and Special Charter Review Commissions, and may submit amendments recommended by regular Charter Review Commissions or Special Charter Review Commissions to the electors in their original or a revised form.

; and

WHEREAS, this Council has recommended that Article XVIII, Section 18.11, Miscellaneous Provisions, of the Hamilton Charter, which governs how the Charter Review Commission is established and what its purpose is as it relates to the City Charter. This section is the only section that discusses how the Charter can be changed and sets up the parameters of how the Charter Review Commission will operate. It states that every five years a Charter Review Commission will be held consisting of City residents and that Council can enact a Special Charter Review Commission to study particular topics at any time. The proposed revisions to the section would make the duties of the Charter Review Commission, the Council, and the City Clerk more well defined; and

WHEREAS, based upon the recommendation of the Charter Review Commission, at least two-thirds of this Council, as required by Section 9 of Article XVIII of the Ohio Constitution, desires to submit an amendment to the Charter of the City of Hamilton, Ohio to the electors of the City at the next general election to be held on Tuesday, November 3, 2020; and

**Emergency Ordinance No. \_\_\_\_\_ (cont'd)**

WHEREAS, the subject matter herein constitutes an emergency in that it provides for the immediate preservation of the public peace, property, safety and welfare of the community in that such emergency measure shall permit the election authorities and other officials named in this ordinance to take the necessary actions and to make preparation for the submission of the amendment to the electors of the City at the general election to be held on Tuesday, November 3, 2020;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hamilton, Ohio:

SECTION I: That the proposed amendment to Article XVIII, Section 18.11, of the Charter of the City of Hamilton, Ohio, which provides the structure of the Charter Review Commission and how to amend the City Charter, shall be submitted to the electors of the City of Hamilton, Ohio for adoption or rejection at the next general election to be held on Tuesday, November 3, 2020. A vote of the majority of the electors of the City of Hamilton, Ohio, voting on the proposed amendment, is required for adoption of said amendment. The proposed amendment is to amend Article XVIII, Miscellaneous Provisions, Section 18.11, of the Charter of the City of Hamilton, Ohio, with the proposed amendment Section 18.11 to read as follows:

**ARTICLE XVIII**

**MISCELLANEOUS PROVISIONS**

**18.11 Charter Review**

(A) Charter Review Commission. On or before February 28, 2005, and every five years thereafter, the Council shall appoint by written motion a Charter Review Commission consisting of not less than nine nor more than fifteen electors of the City to review the City's Charter and to make recommendations, if any, for revisions to the City's Charter to the Council. The Council may also appoint by written motion Special Charter Review Commissions at any time to study and report recommendations to the Council with respect to specific matters. Special Charter Review Commissions shall be composed of not less than five nor more than nine members. The Council may accept or reject the recommendations of Regular Charter Review Commissions and Special Charter Review Commissions, and may submit amendments recommended by Regular Charter Review Commissions or Special Charter Review Commissions to the electors in their original or a revised form.

(B) Charter Amendment by Council. The Council may submit a proposed Charter amendment to the electors without a Regular or Special Charter Review Commission if said amendment is to address an issue in the Charter that has been determined to be immediately hindering the City or City related operations. This amendment must not change the intent of Charter section at issue, only adjust it. The proposed amendment to the Charter shall be read at two separate Council Meetings, one of which shall have a public hearing. The proposed Charter amendment would require a super majority of six Council Members voting in favor of the measure for passage.

(C) If the Council desires to submit amendments recommended by a Regular Charter Review Commission or Special Charter Review Commission under Paragraph A of this Section or amendments under Paragraph B of this Section to the electors, the Council shall pass an ordinance approving the proposed Charter amendments. The City Clerk shall file the amendments with the Butler County Board of Elections for

**Emergency Ordinance No. \_\_\_\_\_ (cont'd)**

the next available election so the proposed amendments may be voted on by the electors of the City of Hamilton. The City Clerk shall advertise that the proposals are available for public viewing and will provide the public with avenues to inspect the proposals.

SECTION II: That the City Clerk is hereby directed to certify the amendment as set forth above to the Board of Elections of Butler County, Ohio for submission to the electors of the City of Hamilton, Ohio, at the next general election to be held on Tuesday, November 3, 2020, to be conducted at the usual places of holding and conducting elections in the City of Hamilton and between the usual hours of opening and closing the polls on election days as required by the Constitution and the laws of the State of Ohio.

SECTION III: That the amendment herein set forth shall be submitted to the electors in such a way so as to allow votes thereon to be cast separately from votes cast on any other question. Said amendment shall be designated on the ballot by its descriptive title as hereinafter set forth or in such other form as shall be determined by the election authorities. The adoption of such amendment by its descriptive title shall have the effect of adopting its text in full as set forth in this ordinance. The form of ballot to be used at said general election shall be as follows or in such other form as shall be determined by the election authorities.

**OFFICIAL BALLOT**

General Election  
November 3, 2020  
City of Hamilton, Ohio

**PROPOSED AMENDMENT TO THE CHARTER OF THE CITY OF  
HAMILTON, OHIO**

Submitted by the City Council

A Majority Affirmative Vote Is Necessary for Passage

**THE QUESTION**

Shall Article XVIII, Section 18.11 of the Charter of the City of Hamilton, Ohio be amended as follows to clarify the duties of the Charter Review Commission, the Council, and the City Clerk during the Charter review process:

**“ARTICLE XVIII**

**MISCELLANEOUS PROVISIONS**

**18.11 Charter Review**

(A) Charter Review Commission. On or before February 28, 2005, and every five years thereafter, the Council shall appoint by written motion a Charter Review Commission consisting of not less than nine nor more than fifteen electors of the City to review the City's Charter and to make recommendations, if any, for revisions to the City's Charter to the Council. The Council may also appoint by written motion Special Charter Review Commissions at any time to study and report recommendations to the Council with respect to specific matters. Special Charter Review Commissions shall be composed of not less than five nor more than nine

**Emergency Ordinance No. \_\_\_\_\_ (cont'd)**

members. The Council may accept or reject the recommendations of Regular Charter Review Commissions and Special Charter Review Commissions, and may submit amendments recommended by Regular Charter Review Commissions or Special Charter Review Commissions to the electors in their original or a revised form.

(B) Charter Amendment by Council. The Council may submit a proposed Charter amendment to the electors without a Regular or Special Charter Review Commission if said amendment is to address an issue in the Charter that has been determined to be immediately hindering the City or City related operations. This amendment must not change the intent of Charter section at issue, only adjust it. The proposed amendment to the Charter shall be read at two separate Council Meetings, one of which shall have a public hearing. The proposed Charter amendment would require a super majority of six Council Members voting in favor of the measure for passage.

(C) If the Council desires to submit amendments recommended by a Regular Charter Review Commission or Special Charter Review Commission under Paragraph A of this Section or amendments under Paragraph B of this Section to the electors, the Council shall pass an ordinance approving the proposed Charter amendments. The City Clerk shall file the amendments with the Butler County Board of Elections for the next available election so the proposed amendments may be voted on by the electors of the City of Hamilton. The City Clerk shall advertise that the proposals are available for public viewing and will provide the public with avenues to inspect the proposals." ?

\_\_\_\_\_  
For the Amendment

\_\_\_\_\_  
Against the Amendment

SECTION IV: That the City Clerk shall cause the full text of this ordinance and the proposed Charter amendment contained herein to be published once a week for not less than two (2) consecutive weeks in the **Journal News**, a newspaper published in the City of Hamilton, Ohio, with the first publication being at least fifteen (15) days prior to the election at which the proposed Charter amendment is to be submitted to the electors of the City of Hamilton as authorized by Section 9 of Article XVIII of the Ohio Constitution and Section 731.211 of the Ohio Revised Code.

SECTION V: That the Board of Elections of Butler County, Ohio, shall certify to the City of Hamilton, Ohio, the result of the vote on said amendment, and if said amendment is approved by a majority vote of those voting thereon, Article XVIII, Section 18.11, as amended, shall become a part of the Charter of the City of Hamilton, Ohio. Said Board of Elections shall, if the amendment is so approved by the electors, deliver a certified copy of such amendment to the Secretary of State, as provided by Section 9 of Article XVIII of the Ohio Constitution.

**Emergency Ordinance No. \_\_\_\_\_ (cont'd)**

SECTION VI: That the Board of Elections of Butler County, Ohio, be and it is hereby directed to give public notice of the time and place of holding such election by publication of such notice at least ten (10) days prior to the date of such election in a newspaper published and of general circulation in the City of Hamilton, Ohio, and to give such other notice, if any, as may be required by law and to take such other actions and to make such arrangements as is necessary for the conduct of the election with respect to the proposed Charter amendment authorized by this ordinance. That the City Manager and Director of Law are hereby authorized to take any other actions required to submit such amendment to the electors of the City on the date fixed in this ordinance.

SECTION VII: This ordinance is hereby declared to be an emergency measure for the reasons set forth in the preamble hereto and shall take force from and after its passage.

PASSED: \_\_\_\_\_

Effective Date: \_\_\_\_\_

\_\_\_\_\_  
Mayor

ATTEST: \_\_\_\_\_  
City Clerk

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk for the City of Hamilton, Butler County, Ohio, hereby certify that the foregoing Emergency Ordinance No. \_\_\_\_\_ was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in the lobby of City Hall for a period of ten days. POSTED: \_\_\_\_\_.

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk of the City of Hamilton, Ohio, State of Ohio, I further certify that the foregoing Emergency Ordinance No. \_\_\_\_\_ was passed by a two-thirds majority of the members of the Council of the City of Hamilton, Ohio with \_\_\_\_\_ Council Members voting in favor of and \_\_\_\_\_ Council Members voting against the Emergency Ordinance, and that this is a true and exact copy of the Emergency Ordinance adopted by the Council of the City of Hamilton on August 12, 2020.

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**

Date: \_\_\_\_\_

## City Council Meeting Staff Report

**Report To:** The Honorable Mayor Patrick Moeller & Members of the City Council

**Report From:** Larry Bagford, Planning & Zoning Specialist

**Agenda Item:** An ordinance approving a request for a conditional use approval to expand an existing self-storage facility at 1010 Cleveland Avenue located in an I-1 Limited Industrial Zoning District, situated in the First Ward, City of Hamilton, Ohio.

<p><b>Approvals/Reviews</b> <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i></p>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	<p><b>Related Strategic Goal(s)</b></p> <input checked="" type="checkbox"/> <b>I</b> Realize new investments <input type="checkbox"/> <b>J</b> Increase gross wages <input checked="" type="checkbox"/> <b>P</b> Increase property values <input type="checkbox"/> <b>R</b> Generate recreational investments <input type="checkbox"/> <b>E</b> Engage citizens in activities <input checked="" type="checkbox"/> <b>O</b> General operations
<p><b>Ordinance or Resolution</b> <i>Ordinance</i></p>	<input checked="" type="checkbox"/> 1 <sup>st</sup> Reading Date: 8-12-2020 <input checked="" type="checkbox"/> 2 <sup>nd</sup> Reading Date: 8-26-2020 <input type="checkbox"/> Resolution Date: <input type="checkbox"/> Public Hearing Date:	
<p><b>Prior Action/Review</b> <i>Please note if this item was discussed on a prior Council or other agenda</i></p>	<p><b>City Council (or other):</b> 7-22-2020            Caucus Report City Council Meeting            Planning Commission: 7-2-2020</p>	
<p><b>Contract</b></p>	<input type="checkbox"/> Contract Required	<input checked="" type="checkbox"/> Additional Document(s) Attached
<p><b>Fiscal Impact</b></p>	Budgeted: \$200.00 Expenditure: \$200.00 Source Funds:	<p><i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i></p>

### Policy Issue

Does City Council wish to approve a Conditional Use Certificate, allowing 27 Property LLC, doing business as Key Storage, to expand an existing self-storage facility at 1010 Cleveland Avenue, Parcel #P6411046000073?

### Policy Alternative(s)

Council may choose not to adopt such legislation to approve a Conditional Use Certificate, allowing 27 Property LLC, doing business as Key Storage, to expand an existing self-storage facility at 1010 Cleveland Avenue, Parcel #P6411046000073. Additionally, Council may choose to suggest additional conditions for approval.

### Staff Recommendation

Planning Staff recommends that Council receives this report, concurs in the recommendation of the Planning Commission and adopts the necessary legislation to approve a Conditional Use Certificate, allowing 27 Property LLC, doing business as Key Storage, to expand an existing self-storage facility at 1010 Cleveland Avenue, Parcel #P6411046000073, based on the Planning Commission's recommendation to approve from its July 2, 2020 meeting.



## **Fiscal Impact Summary**

The City's current fiscal impact includes any staff time allotted to the preparation of the documentation for the request for a Conditional Use Certificate, allowing 27 PROPERTY LLC, doing business as Key Storage, to expand an existing self-storage facility at 1010 Cleveland Avenue, Parcel #P6411046000073, is estimated at approximately \$200.00.

## **Background Information**

The property is 1.78-acres with a pre-existing self-storage business. There are six (6) exiting storage buildings on the property. There is a separate office building located next to the gated entry at the southerly end of the property.

The entrance and all drive aisles between and around the buildings are paved with asphalt. A six-foot (6') high chain-link fence with barbed wire on top of it encloses the entire property.

## **Submission Details**

The applicant proposes an on-site expansion of the self-storage business by adding twenty-four (24) prefabricated storage units. Each individual unit will be eight (8) feet high, eight (8) feet wide and twenty (20) feet deep; with roll up doors on one (1) end.

The applicant proposes installing twelve (12) of the units at the northerly end of the asphalt-paved lot just beyond the northern most existing building. There will be an additional twelve (12) units placed at the southern end of the asphalt-paved lot. Three will be on the east side of the southernmost exiting building and the other nine (9) units will be on the west side of the same building.

In addition to the proposed new units, the owners propose to repair and seal coat the entire asphalt paved area.

## **Statutes**

Per Section 1123.39.11 Hamilton Zoning Ordinance, a self-storage facility requires a Conditional Use Approval from the Planning Commission and City Council.

Per Section 1155.30 (Conditional Uses – Application and Review, General Standards), Hamilton Zoning Ordinance, specific findings outlined for review and approval of a Conditional Use by the Planning Commission.

## **Interdepartmental Review:**

The plans were circulated for Interdepartmental Review. There were no comments or objections.

## **Planning Commission Recommendation**

At their July 2, 2020 meeting, the Planning Commission recommended that City Council approve the Conditional Use for the expansion of the self-storage business at 1010 Cleveland Avenue, subject to the following conditions:

## **Conditions of Approval:**

1. There will be no expansion in the hours of operation.
2. The rusted areas of the fence, fence post and gate at the Cleveland Avenue frontage shall be painted.
3. Units shall not be stacked.
4. The number of new units is limited to twenty-four (24) the addition of any more units will require another conditional use approval.



5. All required permits and inspections shall be obtained prior to the new units being utilized.
6. All site improvements as proposed and all conditions shall be in compliance prior to the new units being placed on the property.
7. All conditions shall be maintained while the business is located at his location. If at any time the property is not in compliance with this approval a Notice of Violation will be sent to the applicant allowing thirty days to achieve compliance.

It is the recommendation of the Planning Commission that Council receives this report, concurs in the recommendation and directs the passage of the necessary legislation.

**Attached Information**

- 1) Exhibit A - Plans and Application
- 2) Exhibit B - Recommended Conditions of Approval
- 3) Exhibit C - Location Map
- 4) Exhibit D - Zoning Map
- 5) Exhibit E - Notice of Public Hearing Letter
- 6) Exhibit F - Planning Commission Staff Report

**Copies Provided to:**

N/A





CONDITIONAL USE APPLICATION

Note: Staff correspondence pertaining to updates on your application, including reports and notifications, is conducted via email. Please be sure to include an email address for each of the contacts below. Staff is also able to notify additional individuals by providing their name and email address on a separate page titled "Additional Contacts" which should be included within your application.

PROPERTY ADDRESS: 1010 Cleveland Ave, Hamilton OH 45013

Property Owner: Nathan Chamberlin

Owner's Mailing Address: 1867 Millville Oxford Rd

Email Address: nathan@extremeaudioandvideo.com Phone Number: 513-535-7000

Applicant's Name (If different from owner): \_\_\_\_\_

Applicant's Mailing Address: \_\_\_\_\_

Email Address: \_\_\_\_\_ Phone Number: \_\_\_\_\_

Architect / Engineer: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Email Address: \_\_\_\_\_ Phone Number: \_\_\_\_\_

Previous Legal Use of Property: Self Storage

Date Previous Use Discontinued: \_\_\_\_\_

Proposed New Use of Property: Self Storage

**PLEASE NOTE:**

Incomplete applications or applications missing the required materials necessary to conduct a review will not be reviewed by staff nor will they be placed on the agenda to be heard by the Planning Commission until all required information has been submitted.

**CERTIFICATION:**

I certify that all of the information contained in this Application is complete, true, and accurate.

Applicant's Signature:  Date: 6/12/2020

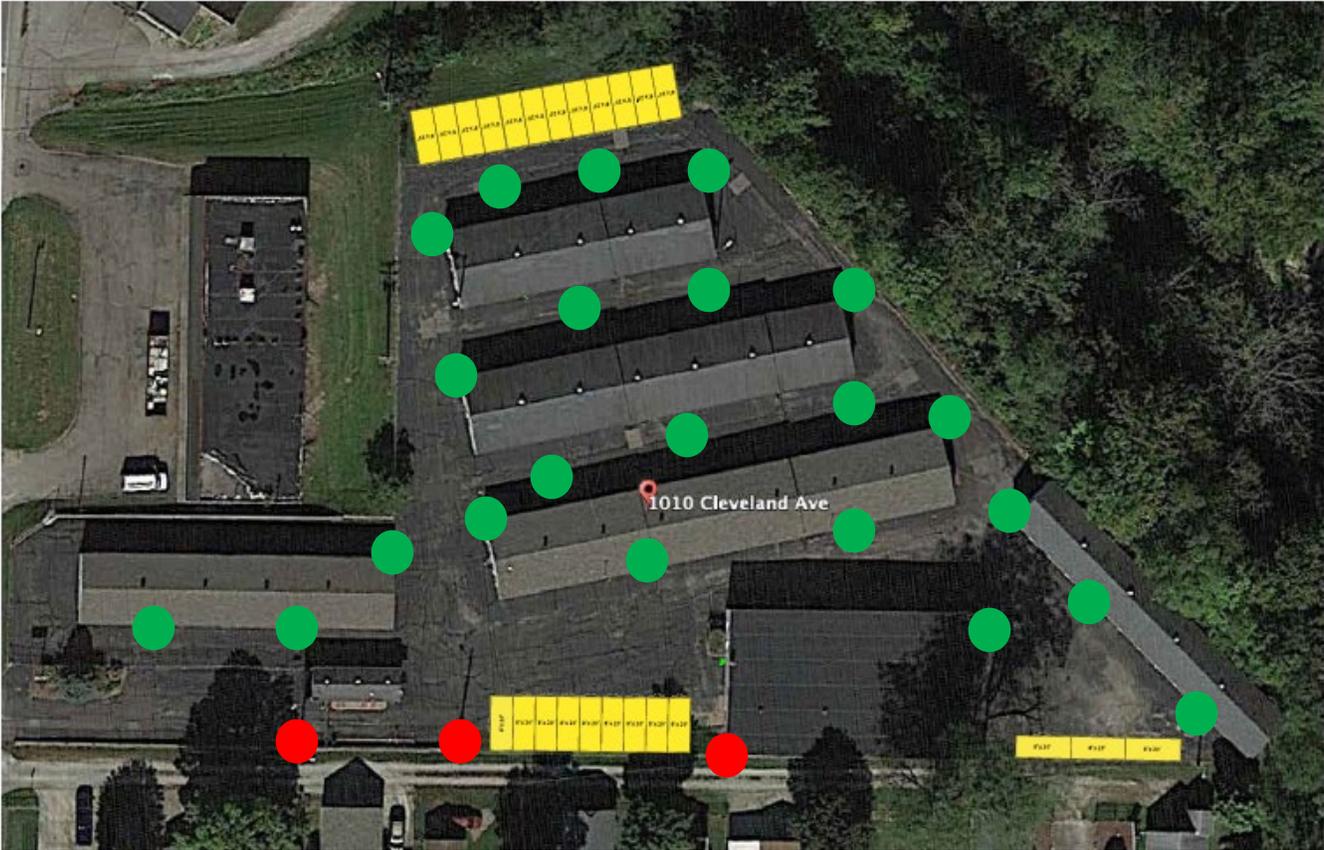
Property Owner's Signature:  Date: 6/12/2020

For questions or more information, please contact Planning at 513 785-7350 | [www.hamilton-city.org](http://www.hamilton-city.org)

Key Storage  
1010 Cleveland Ave  
Hamilton, Ohio 45013

#### Conditional Use Application for 24 Portable Storage Units

1. Please see attached document.
2. The daily access hours are 6 a.m. until 10:00p.m. The manager is on site approximately 20 hours per week and is available by cell.
3. The lot is scheduled for the cracks to be filled and seal coated within the coming weeks. Painting of the buildings is in the works for this year.
4. The portable units will be at least 5-ft from the property line.
5. The existing grade of dirt will change on the north side and the area near the entrance gate will consist of an Allan block wall.
6. Please see attached document. The lights on the facility are aimed so as not to cause any issues with the neighbors around the facility.
7. 20 security cameras, 6ft chain link fencing with barbed wire at the top. A keypad that each customer has to have a code to enter or exit. Updated LED lighting thru out the facility.



 Exterior Building Lights

 Exterior Pole lights





**EXHIBIT B**

<b>APPLICATION INFORMATION</b>	
<b>Applicant/Property Owner</b>	27 Properties LLC dba Key Storage - Nathan Chamberlin
<b>Property Location</b>	1010 Cleveland Avenue
<b>Size of Property</b>	1.78 Acres
<b>Current Zoning</b>	I-1 (Limited Industrial) District
<b>Proposed Request:</b>	Request for a Conditional Use to Expand an existing Self-Storage Facility by adding 24 prefabricated storage units.
<b>Petition Date</b>	06/12/2020

**Request:** Request for a Conditional Use to expand an existing self-storage facility.

**Revised Conditions of Approval:**

1. There will be no expansion in the hours of operation.
2. The rusted areas of the fence, fence post and gate at the Cleveland Avenue frontage shall be painted.
3. Units shall not be stacked.
4. The number of new units is limited to twenty-four (24) the addition of any more units will require another conditional use approval.
5. All required permits and inspections shall be obtained prior to the new units being utilized.
6. All site improvements as proposed and all conditions shall be in compliance prior to the new units being placed on the property.
7. All conditions shall be maintained while the business is located at his location. If at any time the property is not in compliance with this approval a Notice of Violation will be sent to the applicant allowing thirty days to achieve compliance.




**Lines**  
 Override 1  
 Site Address Points  
 Owner Parcels

# 1010 Cleveland Ave





Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community, Esri Community Maps, 2014

**Lines**

- Override 1
- Site Address Points

# 1010 Cleveland Zoning Map





**Planning Department**  
345 High Street, 3rd floor  
Hamilton, Ohio 45011

**EXHIBIT E**

June 16, 2020

**NOTICE OF PUBLIC HEARING**

**LOCATION:** 1010 Cleveland Avenue  
**APPLICANT:** Key Storage - Nathan Chamberlin

**REQUEST:** The applicant is requesting a Conditional Use Approval to expand an existing self-storage facility by adding twenty-four (24) eight feet wide and twenty feet long prefabricated storage units. The site is located within an I-1, Limited Industrial Zoning District.

Attention Property Owner:

The City of Hamilton Planning Commission will hold a public hearing on **Thursday, July 2, 2020 at 1:30 P.M.** in the Council Chambers of the City Building located at 345 High Street.

***You are a property owner within 500 feet of the subject property and as such are required by statute to be notified of this public hearing.***

An application for this project as well as the Commission Bylaws are on file in our office and available for your review. These materials, in addition to future updates and reports completed by staff during the review process, can be found online at:

<https://www.hamilton-city.org/266/Planning-Commission>.

If you have any comments concerning this matter, you may appear at the public hearing or you may forward your comments to the Planning Department in writing for presentation at the meeting.

If you or anyone planning to attend this hearing have a disability for which we need to provide accommodations, please notify staff of your requirements at least three (3) days prior to the public hearing.

If you have any questions, please visit the Planning Department located at 345 High Street, Hamilton, Ohio, or contact **Larry Bagford**, of the City of Hamilton Planning Department at **785-7350**.

Sincerely,

*LJ Bagford*

Larry Bagford, CFM  
Planning & Zoning Specialist



See Reverse Side for Public Hearing Notification Map

**EXHIBIT F**

**For the Planning Commission Meeting of July 2, 2020**

**To:** Planning Commission  
**From:** Larry Bagford, Planning & Zoning Specialist

**Date:** June 15, 2020

**Subject:** AGENDA ITEM # 1–New Business  
**APPLICANT:** Key Storage  
**LOCATION:** 1010 Cleveland Avenue – Parcel # P6411046000073  
**REQUEST:** Request for a Conditional Use to expand an existing self-storage facility.

<b>BASIC INFORMATION</b>		
<b>Applicant/Property Owner</b>	27 Properties LLC dba Key Storage – Nathan Chamberlin	
<b>Architect/Engineer/Consultant</b>	N/A	
<b>Size of Property</b>	1.78 Acres	
<b>Current Zoning</b>	I-1 Limited Industrial District	
<b>Requests</b>	Request for a Conditional Use to Expand an existing Self-Storage Facility by adding 24 prefabricated storage units.	
<b>Size of Revision</b>	24 - 20'X8' units	
<b>ADJACENT LAND USE/ZONING INFORMATION</b>		
<i>Direction</i>	<i>Land Use</i>	<i>Zoning</i>
<b>North</b>	Automotive Repair Business and a Cell Tower	I-1 Limited Industrial Zoning District
<b>South</b>	Single- Family Residence	R-2 Single-Family Residence Zoning District
<b>East</b>	Beltline Bikeway and Public Park	R-1 Single-Family Residence Zoning District
<b>West</b>	Wilson Park	R-2 Single-Family Residence Zoning District

**Section A: Introduction and Background**

***Section A.1: Project Overview***

*Report continued on the next page*





27 PROPERTY LLC, doing business as Key Storage, represented by Mr. Nathan Chamberlin, is requesting a Conditional Use Approval to expand an existing self-storage facility at 1010 Cleveland Avenue, Parcel #P6411046000073. This property is located in an I-1 Limited Industrial Zoning District. Per Section 1134.39.11 of the Hamilton Zoning Ordinance (HZO), a self-storage facility requires a Conditional Use Approval in the I-1, Limited Industrial Zoning District.

### ***Section A.2: Existing Site Conditions***

The property is 1.78-acres with a pre-existing self-storage business. There are six (6) exiting storage buildings on the property. There is a separate office building located next to the gated entry at the southerly end of the property.

The entrance and all drive aisles between and around the buildings are paved with asphalt. A six-foot high chain-link fence with barbed wire on top of it encloses the entire property.

### ***Section A.3: History***

The Butler County Auditors records indicate s a storage business has operated at this location since 1948. There are no records of property maintenance complaints or zoning violations concerning this location.

## **Section B: Petition Review**

### ***Section B.1: Review of Applicant Submittal Materials***

The applicant proposes an on-site expansion of the self-storage business by adding 24 prefabricated storage units. Each individual unit will be eight (8) feet high, eight (8) feet wide and twenty (20) feet deep; with roll up doors on one end. The applicant proposes installing twelve (12) of the units at the northerly end of the asphalt-paved lot just beyond the northern most existing building.

There will be an additional twelve (12) units placed at the southern end of the asphalt-paved lot. Three will be on the east side of the southernmost exiting building and the other nine (9) units will be on the west side of the same building.

In addition to the proposed new units, the owners propose to repair and seal coat the entire asphalt paved area.

### ***Section B.3: Submitted Request***

27 Properties LLC is requesting a Conditional Use Approval in order to expand the self-storage facility 1010 Cleveland Avenue, Parcel #P6411046000073.

*Report continued on the next page*





## **Section C: Statutes**

### ***Section C.1: Conditional Use***

Per Section 1123.39.11 HZO; a self-storage facility requires a Conditional Use Approval from the Planning Commission and City Council. Section 1155.30 (Conditional Uses – Application and Review, General Standards) contains specific findings outlined within the zoning ordinance for review and approval of a Conditional Use by the Planning Commission.

In reviewing an application for a Conditional Use, the Planning Commission shall consider whether there is adequate evidence that the proposed Conditional Use is consistent with the following nine (9) criteria, general standards for a conditional use:

- (1) The proposed Conditional Use is to be located in a district wherein such use may be permitted, subject to the requirements of this Section and the Zoning Ordinance.
- (2) The proposed Conditional Use will not substantially or permanently injure the appropriate use of neighboring property and will serve the public convenience and welfare.
- (3) The proposed Conditional Use will be harmonious with the existing or intended character of the general vicinity, and that such use will not change the essential character of the same area.
- (4) The proposed Conditional Use shall be adequately served by essential public facilities and services such as, but not limited to, roads, public safety forces, storm water facilities, water, sanitary sewer, refuse, and schools. If not, the applicant shall be responsible for the extension or establishment of any public facilities and services to effectively service the proposed Conditional Use.
- (5) The proposed Conditional Use will have vehicular approaches to the property, which shall be so designed as not to create an interference with traffic on surrounding streets.
- (6) The proposed Conditional Use will comply with all applicable development standards, except as specifically altered in the approved Conditional Use.
- (7) The proposed Conditional Use will not be hazardous to or have a negative impact on existing or future neighboring uses.

*Report continued on the next page*





- (8) The proposed Conditional Use will not involve uses, activities, processes, materials, equipment and conditions of operations, including, but not limited to, hours of operation, that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, odor or other characteristic not comparable to the uses permitted in the base zoning district.
- (9) The proposed Conditional Use will not impede the normal and orderly development.

### ***Section C.2: Plan Hamilton***

Plan Hamilton is the updated Comprehensive Plan for the City; a living document meant to guide zoning and land use decisions for the present and the future. Conditional Uses should be compared with the recommendations of Plan Hamilton.

The fact that this business has been here for years is testimony to its harmonious operation in this neighborhood setting.

While the existing use does not align perfectly with Plan Hamilton's land use map, the ability to have a self-storage facility adjacent to this area allows the residents in the area to have a secure facility close by to store excess household goods and furniture.

### **Section D: Notification**

Notices were sent to 95 property owners within 500 feet of the subject property. As of the printing of this report, we have had no responses.

### **Section E: Recommendation:**

A conditional use approval for the expansion of an existing self-storage facility at 1010 Cleveland Avenue, Parcel # P6411046000073

Staff recommends that Planning Commission provide a recommendation to City Council to approve the Conditional Use for the expansion of the self-storage business on the site in question, subject to the following conditions:

### **Conditions of Approval:**

1. There will be no expansion in the hours of operation.
2. All the new units shall be placed a minimum of five feet from any property line in order for the areas around the units to be maintained free of tall grass, weeds and litter.

*Report continued on the next page*





3. The rusted areas of the fence, fence post and gate at the Cleveland Avenue frontage shall be painted.
4. Units shall not be stacked.
5. The number of new units is limited to twenty-four (24) the addition of any more units will require another conditional use approval.
6. All required permits and inspections shall be obtained prior to the business commencing operation.
7. All site improvements as proposed and all conditions shall be in compliance prior to the new units being placed on the property.
8. All conditions shall be maintained while the business is located at his location. If at any time the property is not in compliance with this approval a Notice of Violation will be sent to the applicant allowing thirty days to achieve compliance.

**Section F: Staff Basis / Comments**

1. The proposed Conditional Use will allow a moderate expansion of an existing business that has operated at this location for decades with no adverse effects on the existing character of the general vicinity, and such use has not changed the essential character of the same area.
2. The use is adequately served by essential public facilities and services such as, but not limited to, roads, public safety forces, storm water facilities, water, sanitary sewer, refuse, and schools.
3. The use is not hazardous to nor will it have a negative impact on existing or future neighboring uses.
4. The use does not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
5. The proposed site improvements ensure this property retains its value and usefulness to the community.

*Report continued on the next page*





**Section G: Attachments**

The following attachments are listed in chronological order as they appear in the report.

- 1) **Exhibit A – Proposal Plans**
- 2) **Exhibit B - Location Map**
- 3) **Exhibit C – Zoning Map**
- 4) **Exhibit D – Notice of Public Hearing Letter**
- 5) **Exhibit E – Recommended Conditions of Approval**

*Report continued on the next page*



**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE APPROVING A REQUEST FOR A CONDITIONAL USE APPROVAL TO EXPAND AN EXISTING SELF-STORAGE FACILITY AT 1010 CLEVELAND AVENUE LOCATED IN AN I-1 LIMITED INDUSTRIAL ZONING DISTRICT, SITUATED IN THE FIRST WARD, CITY OF HAMILTON, OHIO.**

WHEREAS, the Administration of the City of Hamilton, Ohio received an application for a Conditional Use request from 27 Property LLC, doing business as Key Storage, to expand an existing self-storage facility at 1010 Cleveland Avenue, Parcel Number P6411046000073; and

WHEREAS, Section 1123.39.11 Hamilton Zoning Ordinance, requires a Conditional Use Approval for a self-storage facility in the I-1 (Limited Industrial) Zoning District; and

WHEREAS, Section 1155.00 of the Hamilton Zoning Ordinance requires that Conditional Uses to be reviewed by the Planning Commission and a recommendation forwarded to City Council; and

WHEREAS, the Planning Department notified all of the owners of property located within five hundred (500) feet of the area in question of a public hearing request for a conditional use approval to expand an existing self-storage facility at 1010 Cleveland Avenue – Parcel Number P6411046000073 - located in an I-1 limited industrial zoning district., situated in the sixth ward, City of Hamilton, Ohio, held at the Hamilton Planning Commission meeting of July 2, 2020; and

WHEREAS, the City Planning Commission held a public meeting, considered the conditional use request, site plan, written information provided by the applicant, findings, and the Conditional Use Review Criteria – General Standards, the Planning Commission; and;

WHEREAS, Planning Commission recommended that City Council approve the request to allow allowing 27 Property LLC, doing business as Key Storage, to expand an existing self-storage facility at 1010 Cleveland Avenue in Exhibit A as proposed and with the conditions as listed in Exhibit B, situated in The City of Hamilton, Butler County, Ohio, Sixth Ward, North Side;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hamilton, Ohio:

SECTION I: That this Council accepts the recommendation of the Planning Commission and hereby approves the request to establish a Conditional Use to expand an existing Self-Storage Facility At 1010 Cleveland Avenue – Parcel Number P6411046000073 - located In an I-1 Limited Industrial Zoning District in the First Ward, City of Hamilton, Butler County, Ohio as indicated in Exhibit No.1, subject to the conditions of approval outlined in Exhibit No. 2; for the following rationale:

- 1) The proposed Conditional Use is to be located in a district wherein such use may be permitted, subject to the requirements of this Section and the Zoning Ordinance.
- 2) The proposed Conditional Use will not substantially or permanently injure the appropriate use of neighboring property and will serve the public convenience and welfare.
- 3) The proposed Conditional Use will be harmonious with the existing or intended character of the general vicinity, and that such use will not change the essential character of the same area.
- 4) The proposed Conditional Use shall be adequately served by essential public facilities and services such as, but not limited to, roads, public safety forces, storm water facilities, water, sanitary sewer, refuse, and schools. If not, the applicant shall be responsible for the extension or establishment of any public facilities and services to effectively service the proposed Conditional Use.
- 5) The proposed Conditional Use will have vehicular approaches to the property, which shall be so designed as not to create an interference with traffic on surrounding streets.
- 6) The proposed Conditional Use will comply with all applicable development standards, except as specifically altered in the approved Conditional Use.

Ordinance No. \_\_\_\_\_ (cont'd)

- 7) The proposed Conditional Use will not be hazardous to or have a negative impact on existing or future neighboring uses.
- 8) The proposed Conditional Use will not involve uses, activities, processes, materials, equipment and conditions of operations, including, but not limited to, hours of operation, that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, odor or other characteristic not comparable to the uses permitted in the base zoning district.
- 9) The proposed Conditional Use will not impede the normal and orderly development.

SECTION II: This ordinance shall take effect and be in full force from and after the earliest period allowed by law after its passage.

PASSED: \_\_\_\_\_

Effective Date: \_\_\_\_\_

\_\_\_\_\_  
Mayor

ATTEST: \_\_\_\_\_  
City Clerk

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk of the City of Hamilton, Ohio, State of Ohio, hereby certify that the foregoing Ordinance No. \_\_\_\_\_ was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in the lobby of City Hall for a period of ten days. POSTED: \_\_\_\_\_.

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**

**EXHIBIT NO.1**



Ordinance No. \_\_\_\_\_ (cont'd)

**EXHIBIT NO. 2**

Conditions of Approval for 1010 Cleveland Avenue

1. There will be no expansion in the hours of operation.
2. The rusted areas of the fence, fence post and gate at the Cleveland Avenue frontage shall be painted.
3. Units shall not be stacked.
4. The number of new units is limited to twenty-four (24) the addition of any more units will require another conditional use approval.
5. All required permits and inspections shall be obtained prior to the new units being utilized.
6. All site improvements as proposed and all conditions shall be in compliance prior to the new units being placed on the property.
7. All conditions shall be maintained while the business is located at his location. If at any time the property is not in compliance with this approval a Notice of Violation will be sent to the applicant allowing thirty days to achieve compliance.

## City Council Meeting Staff Report

**Report To:** The Honorable Mayor Patrick Moeller & Members of the City Council

**Report From:** Liz Hayden, Planning Director

**Agenda Item:** An ordinance approving a request for a conditional use certificate to operate an automotive service and minor repair business at 3000 Dixie Highway, property zoned I-1 Limited Industrial Zoning District, situated in the Sixth Ward, City of Hamilton, Ohio.

<p><b>Approvals/Reviews</b> <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i></p>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	<p><b>Related Strategic Goal(s)</b></p> <input checked="" type="checkbox"/> <b>I</b> Realize new investments <input type="checkbox"/> <b>J</b> Increase gross wages <input checked="" type="checkbox"/> <b>P</b> Increase property values <input checked="" type="checkbox"/> <b>R</b> Generate recreational investments <input type="checkbox"/> <b>E</b> Engage citizens in activities <input type="checkbox"/> <b>O</b> General operations
<p><b>Ordinance or Resolution</b> <i>Ordinance</i></p>	<input checked="" type="checkbox"/> 1 <sup>st</sup> Reading Date: 8-12-2020 <input checked="" type="checkbox"/> 2 <sup>nd</sup> Reading Date: 8-26-2020 <input type="checkbox"/> Resolution Date: <input type="checkbox"/> Public Hearing Date:	
<p><b>Prior Action/Review</b> <i>Please note if this item was discussed on a prior Council or other agenda</i></p>	<p><b>City Council (or other):</b> 7-22-2020            Caucus Report City Council Meeting            Planning Commission: 7-16-2020</p>	
<p><b>Contract</b></p>	<input type="checkbox"/> Contract Required	<input checked="" type="checkbox"/> Additional Document(s) Attached
<p><b>Fiscal Impact</b></p>	Budgeted: \$1,000.00	<p><i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i></p>
	Expenditure: \$1,000.00	
	Source Funds:	

### Policy Issue

Does City Council wish to approve a Conditional Use Certificate, allowing Auto Express to operate an Automotive Service and Minor Repair business at 3000 Dixie Highway, Hamilton, Ohio?

### Policy Alternative(s)

Council may choose not to adopt such legislation to approve a Conditional Use Certificate, allowing Auto Express to operate an Automotive Service and Minor Repair business at 3000 Dixie Highway. Council may also wish to add or amend conditions as part of Council's Conditional Use approval.

### Staff Recommendation

Planning Staff recommends that Council receives this report, concurs in the recommendation of the Planning Commission and adopts the necessary legislation to approve a Conditional Use Certificate, allowing Auto Express to operate an Automotive Service and Minor Repair business at 3000 Dixie Highway.



## **Fiscal Impact Summary**

The City's current fiscal impact includes any staff time allotted to the preparation of the documentation for the request for a Conditional Use Certificate, work completed to establish a multiuse path easement, and real estate work to transfer City-owned property to Auto Express as part of this project, is estimated at approximately \$1,000.00.

## **Background Information**

Auto Express currently operates automotive service and minor repair at 3000 Dixie Highway (See Exhibit A, Location Map). This project proposes demolition of the existing buildings to be replaced with a larger building that will be a similar design to the building Auto Express built in 2018 at 2980 Dixie Highway, directly north of this property.

The proposal includes acquiring an adjacent parcel that is owned by the City of Hamilton, which will be paved and used as a parking lot. The project also includes the applicant providing a six foot (6') easement to the City of Hamilton for a proposed future multimodal path. The regional Miami 2 Miami Trail is projected to use this route. The projected investment in the property is \$600,000. Auto Express needs a new Conditional Use approval because they are expanding the business operations onto a new parcel.

The building is 4,029 square feet and will face Dixie Highway. There are three (3) bay areas of the detailing garage area that will be used for detailing cars and preparing them for customers once the cars are purchased. There is an additional rinsing bay that is part of the detailing process and will not be open to the public as a car wash. The building will also contain office space and bathrooms. The hours of operation for Auto Express are 10am-7pm Monday-Friday and 9:30am-4:30pm on Saturdays.

## **Variance Requests**

The proposed development requested five (5) variances from the Hamilton Zoning Ordinance's Commercial Design Standards and Regulations for Automotive Service and Minor Repair. The Planning Commission approved four (4) variances and denied one (1) variance. They are the following:

### Denied Variance

1. Section 1111.20 Commercial Design Standards – Landscaping
  - a. Zoning Code Requirement – 4 trees and 12 bushes
  - b. Proposed Design – 12 bushes
  - c. Existing Conditions – No landscaping

Planning Commission requested that the property owner find a location for four (4) trees or the equivalent of four (4) trees, which would be twelve (12) more bushes or twenty-four (24) flowering plants.

### Approved Variances

1. Section 1111.31 Commercial Design Standards – Exterior Materials
  - a. Zoning Code Requirement – “These types of materials may be used for trim, detailing, and incidental or secondary wall areas. These secondary materials may not exceed 25% of the exterior wall surface area. Permitted secondary materials include; architectural grade metals...”
  - b. Proposed Design – Architectural grade metal panels are 87% of the building material.
  - c. Existing Condition – Painted cinderblock buildings
2. Section 1111.31 Commercial Design Standards – Transparency
  - a. Zoning Code Requirement – “Side elevations that face a public roadway or which are highly visible from the right of way shall provide at least thirty (30) percent window or transparency at the pedestrian level.”
  - b. Proposed Design – 37% transparency using glass block windows instead of transparent glass. Because glass block is opaque, the proposal required a variance.
  - c. Existing Condition – Zero Percent Transparency



3. Section 1123.38.2 - Automotive Service and Minor Repair in I-1 (Limited Industrial) Zoning –10-foot setbacks
  - a. Zoning Code Requirement – “Automobiles awaiting repair, shall be located on a paved surface and shall have a minimum setback of ten (10) feet from any property line. The area for parking of vehicles shall comply with the side and rear building setback requirements set for the district in which the lot is located or be at least (10) feet, whichever is greater.”
  - b. Proposed Design –
    - i. Front yard setback – Zero (0) foot setback
    - ii. Side yard setback (North) – 12-foot setback
    - iii. Side yard setback (South) – Two (2) foot setback
    - iv. Rear yard setback – Zero (0) foot setback
  - c. Existing Conditions –
    - i. Front yard setback – Zero (0) foot setback
    - ii. Side yard setback (North) – Zero (0) foot setback
    - iii. Side yard setback (South) – Zero (0) foot setback
    - iv. Rear yard setback – Zero (0) foot setback
  
4. Section 1123.38.2 - Automotive Service and Minor Repair in I-1 (Limited Industrial) Zoning –Driveway and parking distance to property lines
  - a. Zoning Code Requirement – “Parking and related driveways and paved areas may be erected in a front yard, but not less than twenty (20) feet from any property line.”
  - b. Proposed Design – Two (2) foot setback
  - c. Existing Design – Zero (0) foot setback to property line

**Statutes**

Section 1123.38.2 of the Hamilton Zoning Ordinance (HZO) governs Automotive Service and Minor Automotive Repair in the I-1 Limited Industrial Zoning District. The purpose is to establish requirements for this use in this Zoning District.

The purpose of Section 1111.00 Commercial Design Standards is to “establish architectural, landscaping, design, building and site development regulations that encourage higher quality development and function in order to protect property values, provide safe and efficient access for the pedestrian and automobile, and protect real estate from impairment or destruction of value.”

**Interdepartmental Review:**

The plans were circulated for Interdepartmental Review. No objections were received.

**Planning Commission Recommendation**

On July 16, 2020, the Planning Commission recommended Council approve a conditional use allowing Auto Express to operate an Automotive Service and Minor Repair business at 3000 Dixie Highway with the following conditions of approval:

**Conditions of Approval:**

1. The project shall be compliant with the Commercial Design Standards set forth in Section 1111.00 of the Hamilton Zoning Ordinance with the exceptions noted in the variance requests and as approved by Planning Commission and City Council.
  - a. Planning Commission voted to approve the following variances at their July 16<sup>th</sup>, 2020 meeting:
    - i. Variance to the Commercial Design Standards for a building materials variance to allow for architectural grade metal panels for 87% of the building material.



- ii. Variance to the Commercial Design Standards to allow Auto Express to use glass block windows to meet the transparency requirements for the side building elevation facing Bobmeyer Road.
    - iii. Variance to the Automotive Service and Minor Repair regulations to allow for a zero (0) foot setback from the property lines for parking of vehicles.
    - iv. Variance to the Automotive Service and Minor Repair regulations to allow for a zero (0) foot setback for driveway and parking distances from adjacent property lines.
  - b. Planning Commission voted to deny the following variance at their July 16<sup>th</sup>, 2020 meeting:
    - i. Variance to the Commercial Design Standards to reduce the landscaping requirement by four (4) trees or the equivalent of four (4) trees is denied.
2. There shall be no window signs or other obstructions in the building. All windows will have an opacity maximum of 35% except for the glass block window on the side elevation facing Bobmeyer Road.
3. The HVAC equipment will be screened per the Commercial Design Standards.
4. All proposed and future signage (permanent or temporary) on site shall comply with the regulations of the Hamilton Zoning Ordinance.
5. Construction drawings and documents for the proposed improvements and work shall be revised subject to any current interdepartmental review comments, and future review requirements of the City of Hamilton Interdepartmental Review.
6. All landscaping, site improvements, exterior finishes and other improvements shall be installed and maintained in good repair and replaced as necessary to remain in compliance with the relevant City of Hamilton codes.
7. All automotive service or repair shall occur indoors.
8. No exterior storage or exterior sales of merchandise or material on the site in question, including but not limited to auto parts and tires.
9. No salvaging of parts of vehicles shall occur on site.
10. No vehicles shall be parked on gravel, grass, or unpaved surfaces.
11. That a lot combination of Parcel P6462006000079 and the future parcel currently owned by the City of Hamilton shall be completed prior to any new construction work being done on the site in question.
12. No vehicles shall be parked on the multiuse path easement. When the multiuse path is built, vehicles will be setback from the multiuse path at a safe distance.
13. All fluids, tires, batteries, and other discarded hazardous materials shall be recycled or removed in accordance with local, state, and federal standards.
14. The dumpster shall be enclosed by a solid wooden fence to be sufficiently screened from view from right-of-way, in accordance with the Commercial Design Standards.
15. The City of Hamilton shall track public safety calls and nuisance complaints associated with the applicant and the property. If issues are identified, the property owners and business operators will work with the City to rectify issues. If issues are not resolved in a timely manner, the Conditional Use may be revoked.



It is the recommendation of the Planning Commission that Council receives this report, concurs in the recommendation and directs the passage of the necessary legislation.

**Attached Information**

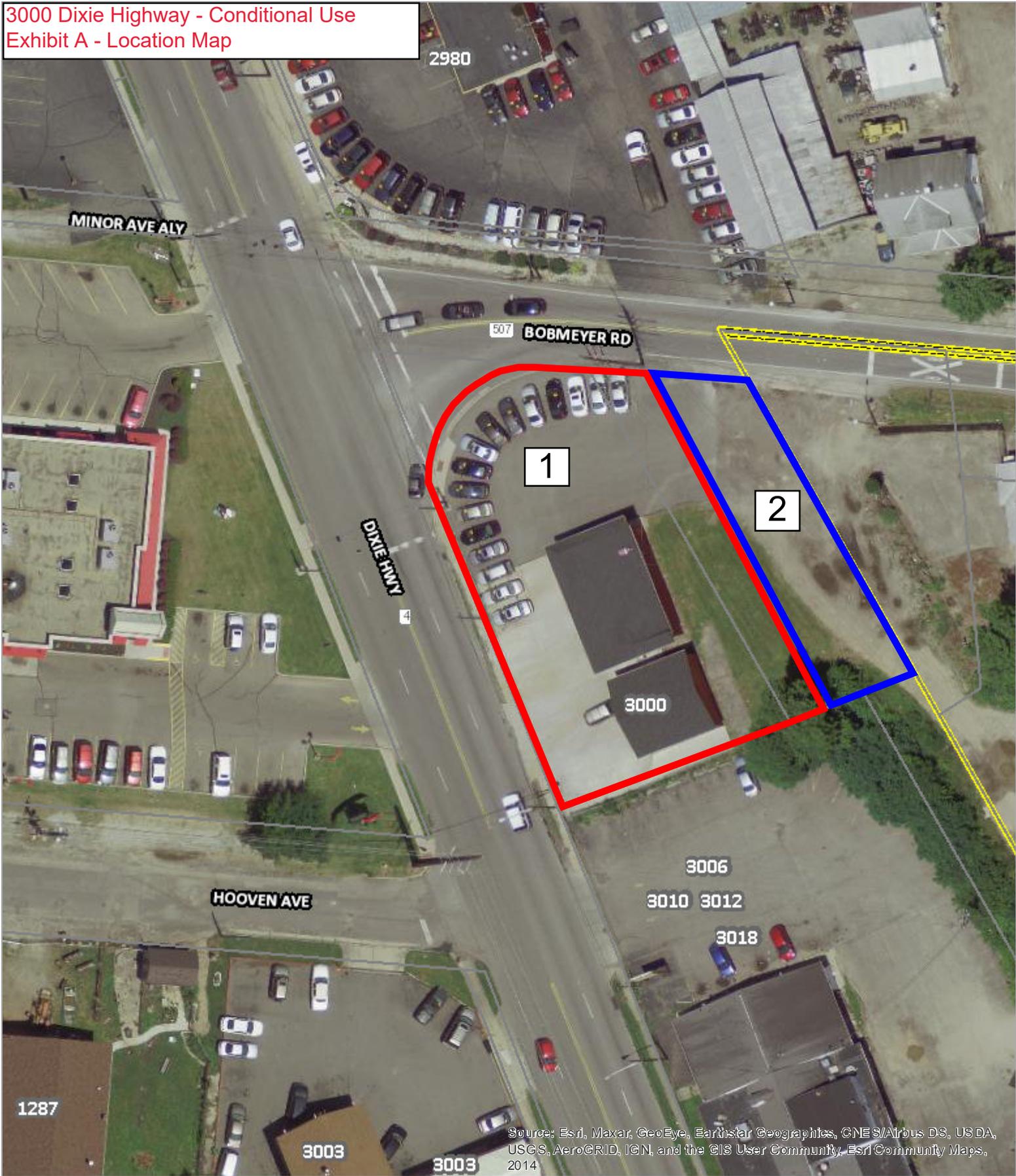
- 1) Exhibit A – Location Map
- 2) Exhibit B – Application and Project Details
- 3) Exhibit C - Zoning Map
- 4) Exhibit D – Public Hearing Notice
- 5) Exhibit E – Planning Commission Report
- 6) Exhibit F – Conditions of Approval

**Copies Provided to:**

N/A



3000 Dixie Highway - Conditional Use  
Exhibit A - Location Map



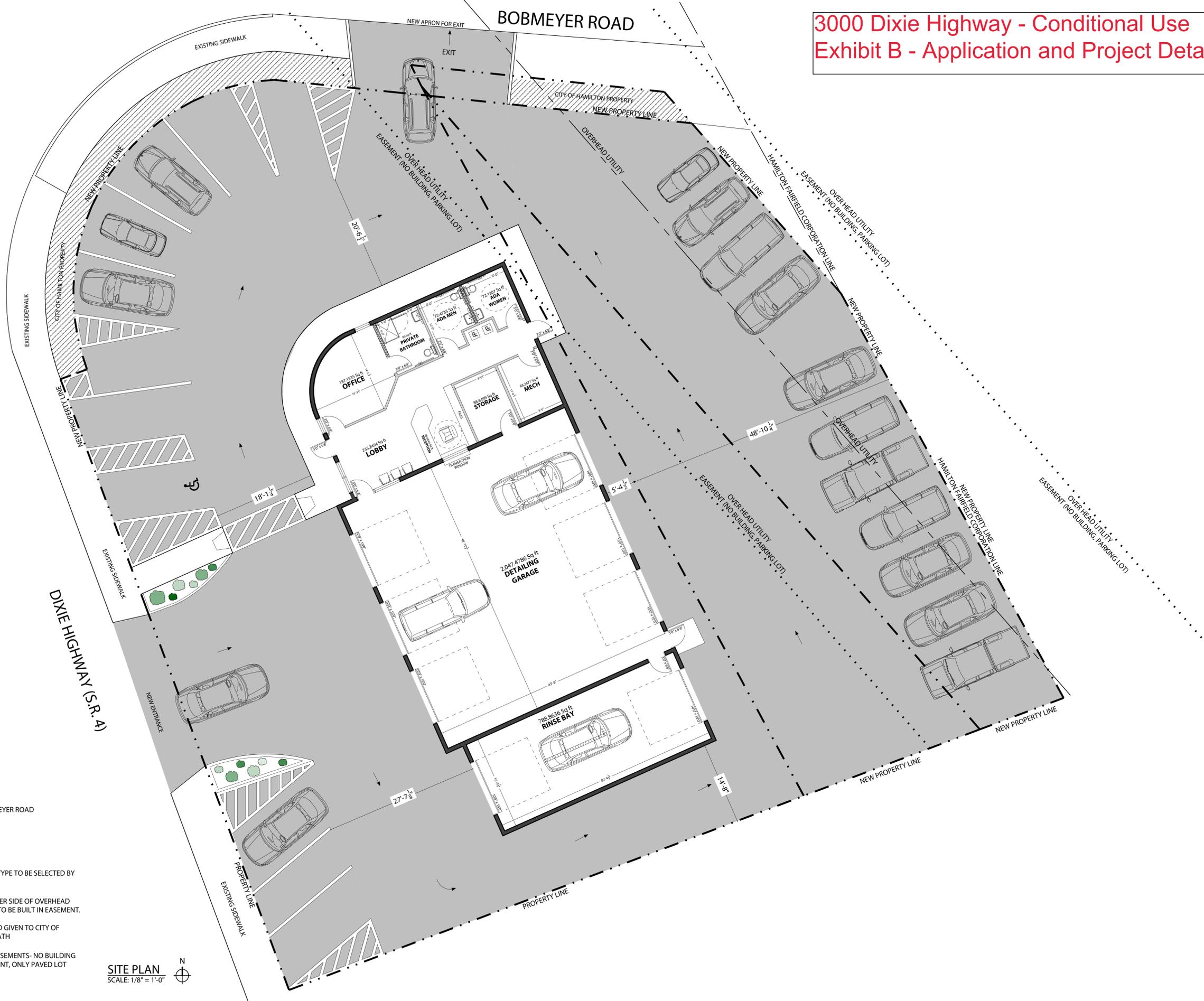
Site Address Points

- 1. 3000 Dixie Hwy (Red)
- 2. City-Owned Parcel (Blue)

# 3000 Dixie Hwy



# 3000 Dixie Highway - Conditional Use Exhibit B - Application and Project Details



**NOTES**  
 - ENTIRE LOT TO BE PAVED  
 - NEW DRIVE APRON/ENTRY AT RT4 AND BOBMEYER ROAD  
 - NEW PARKING LAYOUT AND NEW BUILDING

**NOTES**

- MEDIUM SIZED BUSH. TYPE TO BE SELECTED BY CITY ARBORIST.
- 25'0" SETBACK ON EITHER SIDE OF OVERHEAD UTILITY. NO BUILDING TO BE BUILT IN EASEMENT.
- 10'0" SETBACK OF LAND GIVEN TO CITY OF HAMILTON FOR BIKE PATH
- OUTLINE OF UTILITY EASEMENTS- NO BUILDING TO BE BUILT IN EASEMENT, ONLY PAVED LOT
- PROPERTY LINE
- NEW PROPERTY LINE
- OVERHEAD UTILITY TRANSMISSION LINES

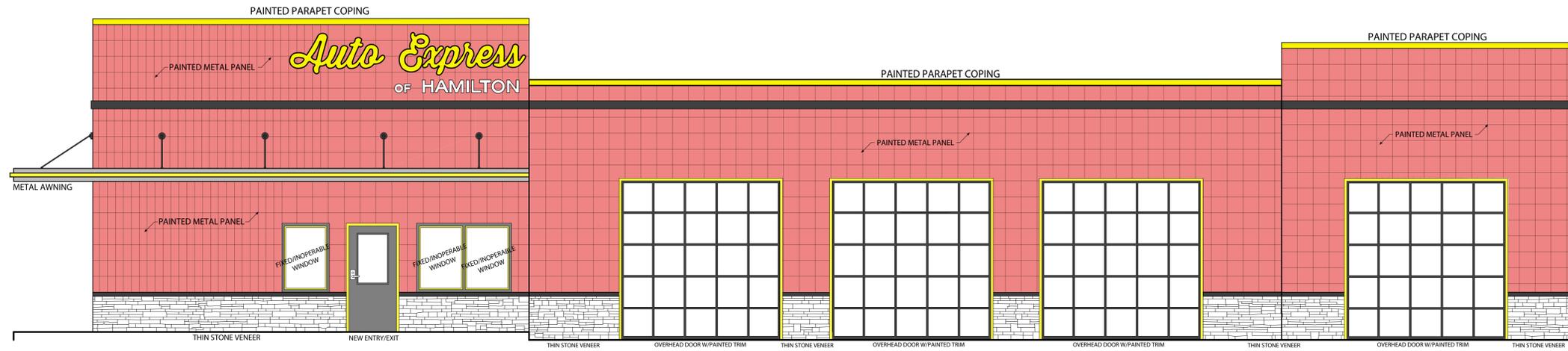
**SITE PLAN**  
 SCALE: 1/8" = 1'-0"



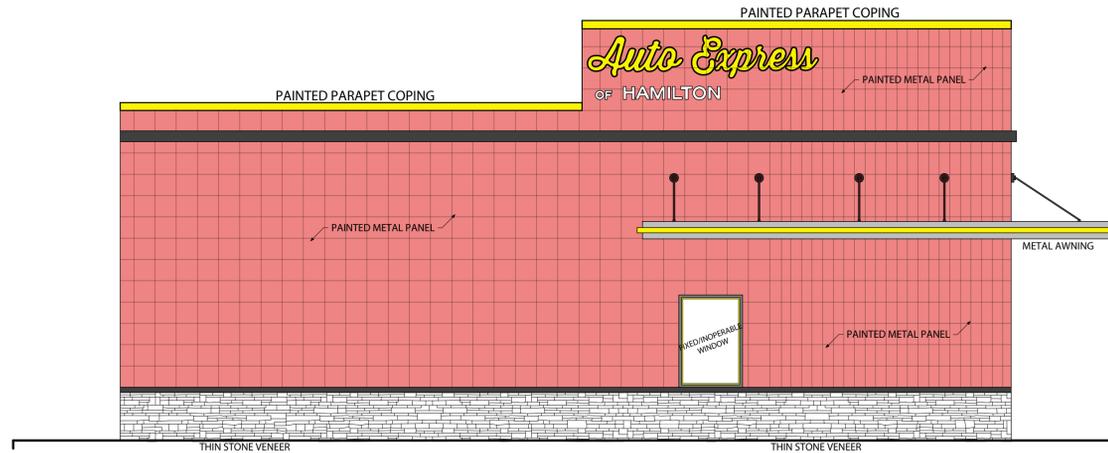
*Auto Express*  
 OF HAMILTON

3000 DIXIE HIGHWAY  
 HAMILTON, OHIO 45011

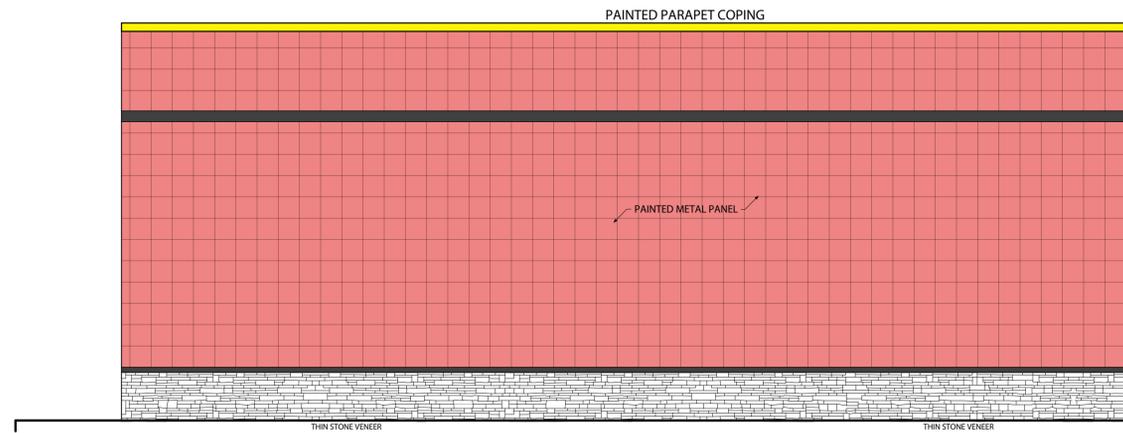
**SITE PLAN**  
 DATE: JUNE 25, 2020  
 SHEET NO.



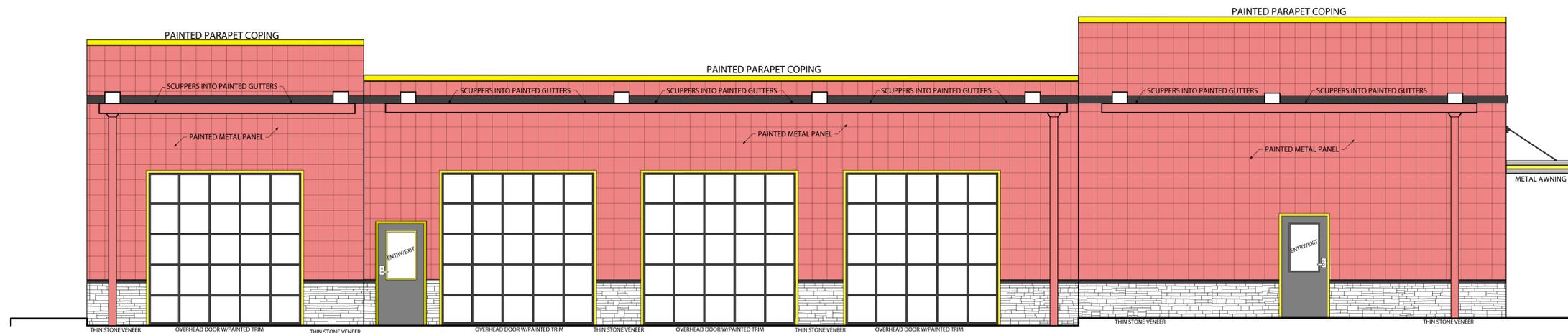
ROUTE 4 ELEVATION  
NEW WEST ELEVATION  
SCALE: 1/4" = 1'-0"



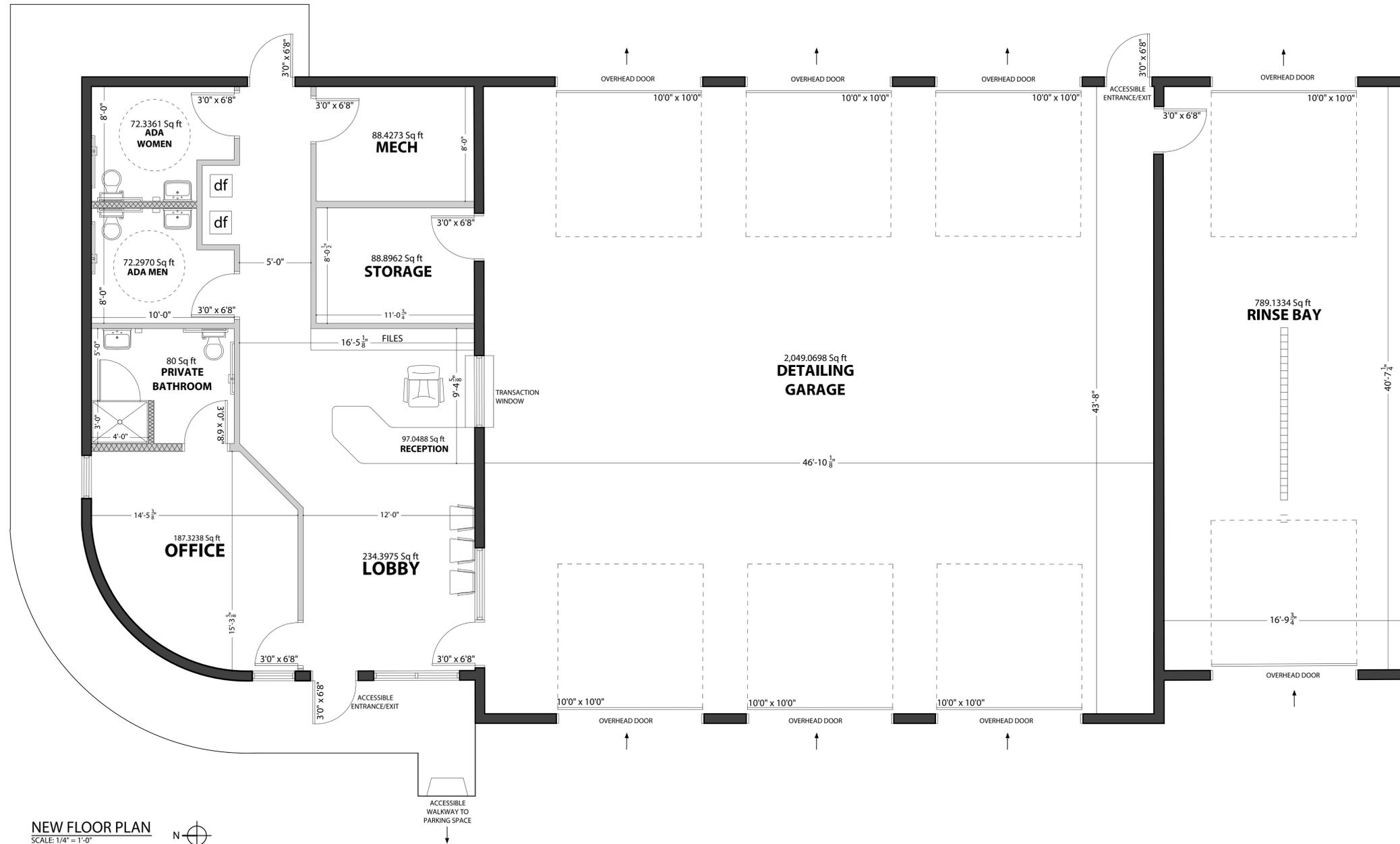
BOBMEYER ROAD ELEVATION  
NEW NORTH ELEVATION  
SCALE: 1/4" = 1'-0"



ELEVATION FACING NEIGHBORS  
NEW SOUTH ELEVATION  
SCALE: 1/4" = 1'-0"



UTILITY EASEMENT ELEVATION  
NEW EAST ELEVATION  
SCALE: 1/4" = 1'-0"



NEW FLOOR PLAN  
SCALE: 1/4" = 1'-0"





**CONDITIONAL USE APPLICATION**

Note: Staff correspondence pertaining to updates on your application, including reports and notifications, is conducted via email. Please be sure to include an email address for each of the contacts below. Staff is also able to notify additional individuals by providing their name and email address on a separate page titled "Additional Contacts" which should be included within your application.

PROPERTY ADDRESS: 3000 Dixie Highway

Property Owner: Josh Sellers Auto Express of Hamilton

Owner's Mailing Address: 2980 Dixie Highway, Hamilton, OH 45015

Email Address: js@autoexpressofhamilton.com Phone Number: (513) 863-2277

Applicant's Name (if different from owner): Community Design Alliance Attn: Steven Gebhart

Applicant's Mailing Address: 236 High Street, Hamilton, OH 45011

Email Address: steven@cdalliance.net Phone Number: (513) 275-1740

Architect / Engineer: Community Design Alliance Attn: Mike Dingeldein

Mailing Address: 236 High Street, Hamilton, OH 45011

Email Address: mike@cdalliance.net Phone Number: (513) 275-1740

Previous Legal Use of Property: Motor Vehicle Sales

Date Previous Use Discontinued: still in use

Proposed New Use of Property: Motor Vehicle Sales

**PLEASE NOTE:**

Incomplete applications or applications missing the required materials necessary to conduct a review will not be reviewed by staff nor will they be placed on the agenda to be heard by the Planning Commission until all required information has been submitted.

**CERTIFICATION:**

I certify that all of the information contained in this Application is complete, true, and accurate.

Applicant's Signature:

Steven Gebhart

Date: 6/24/20

Property Owner's Signature:

Josh Sellers

Date: \_\_\_\_\_

For questions or more information, please contact Planning at 513 785-7350 | [www.hamilton-city.org](http://www.hamilton-city.org)

## Auto Express of Hamilton

3000 Dixie Highway  
Conditional Use Application  
June 25, 2020

Any new or modified motor vehicle related use is required to get approval through a conditional use process. The site at 3000 Dixie Highway, which is zoned I-1 light industrial, is currently a motor vehicle sales center and will continue to remain this use after building and site improvements. The existing building will be razed and a new larger building will be built on parcel P6462006000079 owned by Auto Express of Hamilton. The back portion of the property will exchange hands from the City of Hamilton to Auto Express of Hamilton. This portion of land is a utility easement parcel number P6462006000073, in which only parking will be allowed. A portion of land will exchange hands from Auto Express of Hamilton to The City of Hamilton along Bobmeyer Road. This 10'0" wide strip of land will be used in the future for a bike path. The parking arrangement and building location will vary from the current conditions and are shown on the attached plans. The new building will be larger and merge functions of both current buildings into one. Facing Route 4, the building will consist of an office space with restrooms and storage, three garage bays to do detailing work, and a rinse bay.

The hours of operation for Auto Express will be 10 am – 7 pm Monday through Friday and 9:30 am – 4:30 pm on Saturdays, which will not affect neighboring lots. There aren't any residential lots neighboring the property. Behind the building is a small auto sales building next to the railroad tracks along the Fairfield-Hamilton Corporation line. The neighbor to the south is a liquor store. With the building continuing its current use there will be no additional uses or nuisances on the property. It will solely be an improvement through a new building and new paved lot. Security lights will be placed around the building and current streetlights will remain in place. There are currently two lights shining on the parking lot from the electric poles along Rt. 4 and one light on an existing electric pole on Bobmeyer.

There is currently a gravel lot behind the building used as a utility easement. As mentioned, the City of Hamilton's utility easement will become a part of Auto Express' property. Duke Energy also has a utility easement in the back. This will also be a part of the property, however, no building can be built within these easements. We are able to pave this gravel lot and use it to park cars. The owner will pave the lot and a new drive apron into the lot from Bobmeyer Road. This will allow cars to exit onto Bobmeyer after entering from Route 4. Traffic will flow one way around the building except for cars parked around back that need to be brought to the front of the lot (will be operated by employees only).

The building will be upgraded with new construction. The finishes will resemble that of its counterpart building across Bobmeyer at 2980 Dixie Highway. The colors and materials will match. There will be red painted metal panels with yellow trim/coping and

stone veneer up to sill height. The stone veneer will match the 2980 building, which is Boral Cultured Stone Black Mountain Pro-Fit Alpine LedgeStone. There will be a metal overhang over the entrance at the office end of the building. The roof will be a flat/low slope roof (sloping to the back of the building) with a parapet of varying height. Scuppers emptying into a gutter system will shed the roof of water in the back of the building only. The entryway will be along Rte. 4 and the bays of the building will face Rte.4. Two cars can be in each bay at a time with doors on both sides of the building. The south end of the building is a rinse bay that will clean cars after sale preparing them for the customer. The three main bays will not house any major repair, which will be done in another building. These bays will serve to detail cars and preparing them for the customer after purchase. Auto Express is planning on expanding and this new building, which is larger, will allow for that to happen as well as giving the employees a much improved place to work. The current owner has made great strides in making his other properties much improved and nicer spaces for customers and employees. The building across Bobmeyer was a major improvement to the corner and the repair garage behind the building off of Ramona Lane keeps much of the repair work out of site from Rte. 4. With the two corresponding buildings at the corner, it will be a great improvement to the entry into Hamilton from Fairfield on Bobmeyer as well as improved look on Rte. 4.

### **Variance Conditions.**

Below is a list of requested variances from the required conditions of the City of Hamilton Zoning Ordinance.

1. A minimum lot size of 20,000 square ft. is required for motor vehicle uses in accordance with the City of Hamilton Zoning Ordinance. Our lot size is maximum 15,383 square ft. This lot is currently operating as a motor vehicle use. There will be a new building on the site, but continue with the same use.
2. We are requesting the required setback of 10'-0" for parking cars be waived. We are in need of the cars along Route 4 and the rear of the lot to be parked along the property line. The site is limited due to a utility setback placing the new building closer to Rte. 4 than it would have been. This will limit the amount of frontage space preventing cars from being parked in front of building due to space requirements. With the removal of the 10'0" setback cars will be able to be parked along Rte. 4 and there still be room for a driving lane around the building. Cars will also be able to be parked in the back of the building.
3. Concerning landscaping, we are requesting a variance to approve (6) medium bushes on either side of the entrance off of Route 4. The Bobmeyer side of the property has a 10'0" easement that will become the City of Hamilton's property. This will be landscaped by the city. The rest of the frontage will need to be paved to allow for proper clearances and to get cars access around the site. Currently there is no landscaping on the site.
4. Land is being transferred to the City of Hamilton for a bike path. And a utility easement is being transferred to Mr. Sellers from the City of Hamilton/Duke. These lots will change the dimensions of the lot giving less frontage along Bobmeyer drive and more parking behind the building.

## Variance Application Questions

- (1) The proposed Conditional Use is to be located in a district wherein such use may be permitted, subject to the requirements of this Section and the Zoning Ordinance.
  - a. Motor Vehicle Uses are allowed according to the Zoning Ordinance 1121.39.27 with a conditional use approval.
- (2) The proposed Conditional Use will not substantially or permanently injure the appropriate use of neighboring property and will serve the public convenience and welfare.
  - a. The neighboring properties are similar in use with Auto sales behind and across the street. There will be no detrimental features to the property that will inhibit the other uses of surrounding buildings. The use is existing and operating currently without any inhibitions to the neighbors. The nicer facility and new paved lot will only improve conditions for the neighboring properties.
- (3) The proposed Conditional Use will be harmonious with the existing or intended character of the general vicinity, and that such use will not change the essential character of the same area.
  - a. Car dealerships have a large presence on Route 4 from the fairgrounds all the way to the Fairfield Border. The nature of the street is high traffic with shopping, services, and other commercial uses. There is not a residential property behind the building. Once one crosses into Fairfield in the back of the property it is an industrial area. There are businesses across Rte. 4 that block the view of the residential areas from this property. No additional noises will be present on the property or light pollution. The building/business owner owns the property across the street and a lot along Ramona Lane behind 3000 Dixie and has made considerable upgrades to those facilities in the past few years. He has shown he is committed to running a business that will improve the area and maintain his properties/facilities. This building will be an improvement to the existing condition of the site and the new conditions will be nicer than that of surrounding aged properties.
- (4) The proposed Conditional Use shall be adequately served by essential public facilities and services such as, but not limited to, roads, public safety forces, storm water facilities, water, sanitary sewer, refuse, and schools. If not, the applicant shall be responsible for the extension or establishment of any public facilities and services to effectively service the proposed Conditional Use.
  - a. The existing infrastructure to the site is in place considering the same use is functioning at the site at this time. The building owner will take care of a drive apron and paving the whole lot.
- (5) The proposed Conditional Use will have vehicular approaches to the property, which shall be so designed as not to create an interference with traffic on surrounding streets.

Improvements are being made to approach of parking lot and exit. This will only create a safer and better road condition. Currently there is an entry and exit in the same locations. We will create new curbs to improve those entry/exits and make them more visible/clear.

- (6) The proposed Conditional Use will comply with all applicable development standards, except as specifically altered in the approved Conditional Use.
  - a. Correct. Conditions that don't comply with developments standards are listed in application as a request for a variance.
- (7) The proposed Conditional Use will not be hazardous to or have a negative impact on existing or future neighboring uses.
  - a. Existing use will continue on site. Paving existing gravel lot will increase accessibility to utility easement. Area will only improve from new building.
- (8) The proposed Conditional Use will not involve uses, activities, processes, materials, equipment and conditions of operations, including, but not limited to, hours of operation, that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, odor or other characteristic not comparable to the uses permitted in the base zoning district.
  - a. No additional conditions detrimental to the site will occur. The building will house the garage to prep vehicles after sale.
- (9) The proposed Conditional Use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
  - a. Development is completely within the site and will not impede any neighbor from future development or improvement.
- (10) State how the proposal relates to existing land use of the vicinity, or to the City of Hamilton Comprehensive Plan. If the proposed use is inconsistent with the land uses in the surrounding area justify the proposed deviation.
  - a. The land use will not be changing.

3000 Dixie Highway - Conditional Use  
Exhibit C - Zoning Map



Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community, Esri Community Maps, 2014

-  Site Address Points
-  Owner Parcels
-  Municipal Boundaries

# 3000 Dixie, Zoning Map





July 1, 2020

**NOTICE OF PUBLIC HEARING**

Attention Property Owner:

The City of Hamilton Planning Commission will hold a public hearing on **Thursday evening, July 16, 2020 at 6:00 P.M.** in the Council Chambers of the City Building located at 345 High Street, and via Zoom online webinar, at: <https://zoom.us/j/91172580559>. Webinar ID: 911 7258 0559.

The agenda for this hearing includes the following item:

- LOCATION:** 3000 Dixie Highway – (Corner of Route 4 & Bobmeyer Road)
- APPLICANT:** Steven Gebhart, per Community Design Alliance
- REQUEST:** The applicant is seeking a Conditional Use certificate approval, with variances, to allow the construction of a new one-story building for a motor vehicle sales use (Automobile Sales). The site is zoned I-1 (Limited Industrial) Zoning District.

***You are a property owner within 500 feet of the subject property and as such are required by statute to be notified of this public hearing.***

An application for this project (site plan, images) as well as the Commission Bylaws are on file in our office and available for your review. These materials, in addition to future updates and reports completed by staff during the review process, can be found online at: <https://www.hamilton-oh.gov/planningcommission>

The Planning Commission Agenda containing the staff report, application, and site plans will be updated as we approach the date of the Planning Commission meeting: Agenda link - <https://tinyurl.com/pc07162020>.

Due to recent state mandates, the Planning Commission meeting shall be held remotely. Staff will hold the meeting through an online service and allow citizens to call into the meeting or access the meeting via website. We encourage you to access the meeting through the options below.

**Call: 1 (929) 205-6099 and when prompted dial the Webinar ID: 911 7258 0559**

**Or use this website link to access the online meeting: <https://zoom.us/j/91172580559>**

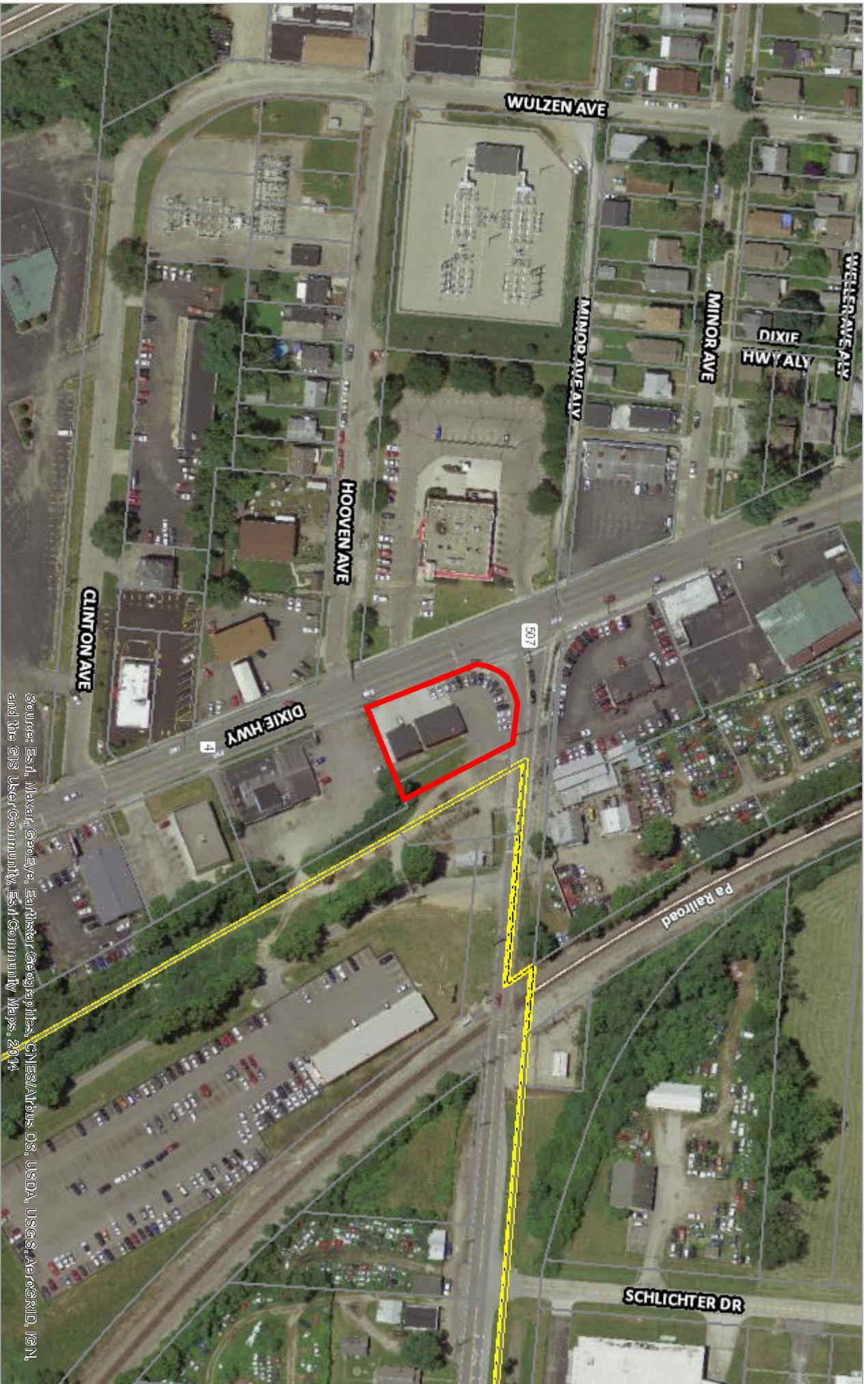
If you have any questions or comments concerning this matter, please forward your comments in writing for presentation at the meeting, or, please contact the Planning Department via email at [planning@hamilton-oh.gov](mailto:planning@hamilton-oh.gov) or contact **Ed Wilson, AICP** or **Liz Hayden, Planning Director** of the City of Hamilton Planning Department at (513) 785-7350.

Sincerely,

*Edward Wilson III, AICP*

Mr. Ed Wilson, AICP  
Associate Planner II

**See Reverse Side for Public Hearing Notification Map**



- Owner Parcels
- Municipal Boundaries

# 3000 Dixie Hwy

Source: Esri, Maxar, GeoEye, Earthstar, GeoEye, IGN, AerGRID, IGN, and the GIS User Community, Esri Community Maps, 2014



The information contained in this map is a public resource for general information and is provided for use only as a graphical representation. The City of Hamilton makes no warranty to the content, accuracy or completeness of the information contained here and assumes no liability for any errors. Any reliance on this information is the exclusive risk of the user.



**Planning Department**  
345 High Street, 3rd floor  
Hamilton, Ohio 45011

**Agenda Item #2**  
3000 Dixie Hwy.

**For the Planning Commission Meeting of July 16, 2020**

**To:** Planning Commission  
**From:** Liz Hayden, Planning Director  
Ed Wilson, AICP Associate Planner II  
**Date:** July 16, 2020

**Subject: AGENDA ITEM #2 – New Business**  
**3000 Dixie Highway – Conditional Use Application**

**APPLICANT:** Community Design Alliance on behalf of Josh Sellers/Auto Express of Hamilton, Property Owner

**LOCATION:** 3000 Dixie Highway, Hamilton, Ohio (Parcel Numbers # P6462006000079 and P6462006000073)

**REQUEST:** The applicant has submitted an application for a Conditional Use approval for Automotive Service and Minor Repair and five (5) variances. The variances to the Hamilton Zoning Ordinance are:

Section 1111 – Commercial Design Standards

1. Exterior materials
2. Landscaping
3. Transparency

Section 1123.38.2 - Automotive Service and Minor Repair in Industrial-1 (I-1 Limited Industrial) Zoning

4. Ten (10) foot setback
5. Driveway distance to property lines

BASIC INFORMATION		
Size of Property	0.46 acres (19,884 square feet)	
Zoning	<a href="#">Limited Industrial – I-1 Zoning District</a>	
ADJACENT LAND USE/ZONING INFORMATION		
Direction	Land Use	Zoning
North	Commercial	I-1 (Limited Industrial) Zoning District
South	Commercial	I-1 (Limited Industrial) Zoning District
East	Commercial	City of Fairfield
West	Commercial	B-2 (Community Business) Zoning District

*Report continued on the next page*

## **Section A: Introduction and Background**

### ***Section A.1: Project Overview***

Auto Express currently operates automotive service and minor repair at 3000 Dixie Highway (See Exhibit A, [Location Map](#)). This project proposes to raze the existing buildings to be replaced with a larger building that will be a similar design to the building Auto Express built in 2018 at 2980 Dixie Highway, directly north of this property. The property in question is zoned I-1 (Limited Industrial) zoning district (please refer to Exhibit C, [Zoning Map](#)). Per the Hamilton Zoning Ordinance (HZO), Section [1123.28.2](#), Automotive Service and Minor Repair requires a Conditional Use review and approval.

The proposal includes acquiring an adjacent parcel that is owned by the City of Hamilton, which will be paved and used as a parking lot. The project also includes the applicant providing a 6-foot easement to the City of Hamilton for a proposed future multimodal path. The regional Miami 2 Miami Trail is projected to use this route.

### ***Section A.2: Existing Site Conditions***

The original building on site was built in 1950. The parking lot is currently not striped. The gravel lot currently owned by the City of Hamilton has been a challenging spot for trespassing and dumping.

### ***Section A.3: History***

The site in question currently operates the same business as proposed in the plan. Auto Express purchased the property in 2012 and received Conditional Use approval to operate an Automotive Service and Minor Auto Repair business at 3000 Dixie.

City staff has been in conversation with the property owner about possible redevelopment of the site since 2018. The discussions primarily focused on Auto Express acquiring the City parcel and Auto Express granting a trail easement but has evolved into a full site redevelopment proposal.

*Report continued on the next page*



## **Section B: Development Plan Review**

### ***Section B.1: Development Plan Overview***

#### **New Building**

The building is 4,029 square feet and will face Dixie Highway. There are three bay areas of the detailing garage area that will be used for detailing cars and preparing them for customers once the cars are purchased. There is an additional rinsing bay that is part of the detailing process and will not be open to the public as a car wash. The building will also contain office space and bathrooms. The hours of operation for Auto Express are 10am-7pm Monday-Friday and 9:30am-4:30pm on Saturdays.

#### ***Section B.1.1 Building Materials & Windows Transparency***

The submitted Development Plans indicate the following:

- **Building Materials** - The building will resemble Auto Express' building at 2980 Dixie Highway in materials and color. The proposal is for the primary material to be red painted metal panels with yellow trim/coping and stone veneer up to sill height. A metal awning is proposed over the office area. According to the Commercial Design Standards, no more than 25% of the building materials can be metal panels, so the proposed design would require a variance. The applicant is still working on providing the final percentage that is metal paneling, but it is estimated to be at least 75% of the building material. The remaining material is a stone accent.
  - Metal Panel: 87%
  - Stone Veneer: 13%
- **Transparency** - According to the Commercial Design Standards, the primary façade must have 35% transparency and any additional building sides that are highly visible from the right-of-way must have 30% transparency. The applicant exceeds the transparency requirements on the front façade but only meets the side transparency requirement with glass block. Since glass block is opaque, it requires a variance.
  - **Front façade transparency: 57%**
    - The top three panels of the overhead doors will be transparent, so they are considered part of meeting the transparency requirement.
  - **Side façade transparency: 37%** including the glass block windows
    - The applicant cited building design, including the fact that this wall is mostly bathrooms and the curved wall design in the office area as reasons for the transparency variance request.
- The proposed building design meets the Commercial Design Standards except for the noted variance requests.

*Report continued on the next page*

### ***Section B.1.2: Landscaping***

Per the Commercial Design Standards, the site should have four (4) trees and twelve bushes. The proposal shows 12 medium sized bushes at the Dixie Highway entrance to the site. This proposal would require a variance for the four (4) trees.

- The proposal states that the Municipal Arborist can choose the type of bushes.

### ***Section B.1.3: Lighting***

Security lights will be placed around the building to improve the lighting. No new pole lights are proposed.

### ***Section B.1.4 Signage***

The site design proposes two wall signs, one on the Dixie Highway elevation and one on the Bobmeyer elevation. Details about the wall signs were not provided with the Conditional Use submission but they will conform to the signage regulations set forth in the Hamilton Zoning Ordinance.

The applicant stated that he does not intend to have a freestanding sign on site and will not put any window signage in the transparent area of the overhead doors.

### ***Section B.1.5 Off-Street Parking & Access Controls***

#### Parking

The site design includes paving and striping the parking lot, including the parcel currently owned by the City of Hamilton which is currently gravel. Auto Express' current parking lot is not striped. Five (5) parking spaces will be added to the area currently owned by the City behind the new building. The site plan shows ten (10) parking spaces along the parcel frontage. A pedestrian path to the building from Dixie Highway is shown through the parking lot as well.

*Report continued on the next page*



### Site Access

The site plan shows the existing curb cut onto Dixie Highway and a curb cut with a new concrete apron onto Bobmeyer Road. Currently, the Bobmeyer side has no curbs so it is a continuous curb cut. The proposal will better designate the access point to the site.

The proposed site design will require a variance from the HZO regulation that states that parking and related driveway shall be twenty feet from a property line. The parking spaces within twenty feet of the property line on Dixie Highway is an existing condition and the City of Hamilton requested that the access drive on Bobmeyer be located as far away from the intersection as possible for safety reasons.

### ***Section B.1.6: Refuse Storage Area***

The dumpster will be enclosed with a wooden fence. It is a small mobile dumpster so it will move around site, but when it is not in use, it will be stored within the wooden enclosure.

### ***Section B.1.7: Miscellaneous***

1. No fencing is proposed on site.

### **Section C: Interdepartmental Review**

The City's Interdepartmental Review Committee evaluated the proposed development and no objections were submitted.

### **Section D: Submitted Request**

In order to accomplish the development project as reflected in Section B of this report, the applicant proposes the following requests.

***Request 1: Conditional Use to allow Automotive Service and Minor Auto Repair on property zoned I-1 (Limited Industrial).***

As a conditional use, this request requires review and a recommendation from the Planning Commission and approval by the City Council.

*Report continued on the next page*

***Request 2: Five (5) variances to the Hamilton Zoning Ordinance  
pertaining to the Conditional use Request***

This request requires review and approval by the Planning Commission. The variances are:

1. [Section 1111.20](#) Commercial Design Standards – Landscaping
  - a. Zoning Code Requirement – 4 trees and 12 bushes
  - b. Proposed Design – 12 bushes
  - c. Existing Conditions – No landscaping
  
2. [Section 1111.31](#) Commercial Design Standards – Exterior Materials
  - a. Zoning Code Requirement – “These types of materials may be used for trim, detailing, and incidental or secondary wall areas. These secondary materials may not exceed 25% of the exterior wall surface area. Permitted secondary materials include; architectural grade metals...”
  - b. Proposed Design – Final percentages will be presented at Planning Commission, but the metal panels are estimated to be at least 87% of the building material.
  - c. Existing Condition – Painted cinderblock buildings
  
3. [Section 1111.31](#) Commercial Design Standards – Transparency
  - a. Zoning Code Requirement – “Side elevations that face a public roadway or which are highly visible from the right of way shall provide at least thirty (30) percent window or transparency at the pedestrian level.”
  - b. Proposed Design – 37% transparency using glass block windows instead of transparent glass
  - c. Existing Condition – Zero Percent Transparency
  
4. [Section 1123.38.2](#) - Automotive Service and Minor Repair in I-1 (Limited Industrial) Zoning – 10-foot setbacks
  - a. Zoning Code Requirement – “Automobiles awaiting repair, shall be located on a paved surface and shall have a minimum setback of ten (10) feet from any property line. The area for parking of vehicles shall comply with the side and rear building setback requirements set for the district in which the lot is located or be at least (10) feet, whichever is greater.”
  - b. Proposed Design –
    - i. Front yard setback – Zero (0) foot setback
    - ii. Side yard setback (North) – 12 foot setback
    - iii. Side yard setback (South) – Two (2) foot setback
    - iv. Rear yard setback – Zero (0) foot setback
  - c. Existing Condition –
    - i. Front yard setback – Zero (0) foot setback
    - ii. Side yard setback (North) – Zero (0) foot setback
    - iii. Side yard setback (South) – Zero (0) foot setback
    - iv. Rear yard setback – Zero (0) foot setback

*Report continued on the next page*



5. [Section 1123.38.2](#) - Automotive Service and Minor Repair in I-1 (Limited Industrial) Zoning –Driveway and parking distance to property lines
  - a. Zoning Code Requirement – “Parking and related driveways and paved areas may be erected in a front yard, but not less than twenty (20) feet from any property line.”
  - b. Proposed Design – Two (2) foot setback
  - c. Existing Design – Zero (0) foot setback to property line

## **Section E: Statutes:**

### ***Section E.1. Zoning District Regulations***

[Section 1123.38.2](#) of the Hamilton Zoning Ordinance (HZO) governs Automotive Service and Minor Automotive Repair in the I-1 Limited Industrial Zoning District. The purpose is to establish requirements for this use in this Zoning District.

The purpose of [Section 1111.00](#) Commercial Design Standards is to “establish architectural, landscaping, design, building and site development regulations that encourage higher quality development and function in order to protect property values, provide safe and efficient access for the pedestrian and automobile, and protect real estate from impairment or destruction of value.”

### ***Section E.2. Conditional Use Approval***

[Section 1108.00](#) of the Hamilton Zoning Ordinance (HZO) defines Automotive Service and Minor Repair as a conditional use in an I-1 Limited Industrial zoning district.

#### **Conditional Use Criteria**

[Section 1155.00](#) of the Hamilton Zoning Ordinance (HZO) outlines the processes and requirements for review of a Conditional Use. Section 1155.30 specifies the criteria and general standards for a proposed Conditional Use, including nine (9) criteria for consideration of the proposal.

***(Continued)***

*Report continued on the next page*

**Conditional Use Criteria (Continued)**

1. The proposed Conditional Use is to be located in a district wherein such use may be permitted, subject to the requirements of this Section and the Zoning Ordinance.
2. The proposed Conditional Use will not substantially or permanently injure the appropriate use of neighboring property and will serve the public convenience and welfare.
3. The proposed Conditional Use will be harmonious with the existing or intended character of the general vicinity, and that such use will not change the essential character of the same area.
4. The proposed Conditional Use shall be adequately served by essential public facilities and services such as, but not limited to, roads, public safety forces, storm water facilities, water, sanitary sewer, refuse, and schools. If not, the applicant shall be responsible for the extension or establishment of any public facilities and services to effectively service the proposed Conditional Use.
5. The proposed Conditional Use will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding streets.
6. The proposed Conditional Use will comply with all applicable development standards, except as specifically altered in the approved Conditional Use.
7. The proposed Conditional Use will not be hazardous to or have a negative impact on existing or future neighboring uses.
8. The proposed Conditional Use will not involve uses, activities, processes, materials, equipment and conditions of operations, including, but not limited to, hours of operation, that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, odor or other characteristic not comparable to the uses permitted in the base zoning district.
9. The proposed Conditional Use will not impede the normal and orderly development.

*Report continued on the next page*



### ***Section E.3. Variance Approval Criteria***

Per Section 1170.63 HZO no such variance to the provisions or requirements of the zoning ordinance shall be authorized by the Planning Commission unless the Commission finds that all of the following facts and conditions exist.

- 1. Exceptional Circumstances:** That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same Zoning District.
- 2. Preservation of Property Rights:** That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same Zoning District and in the same vicinity.
- 3. Absence of Detriment:** That the authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the purposes of this Ordinance of the public interest.
- 4. Not of General Nature:** No grant of a variance shall be authorized unless the Board specifically finds that the condition or situation of the specific piece of property for which variance is sought is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such conditions or situation.

### ***Section E.4. Plan Hamilton***

Plan Hamilton is the City of Hamilton's updated Comprehensive Plan meant to guide land use, planning and zoning decisions for the city. The plan recommends Regional Commercial for 3000 Dixie Highway. This land use is characterized by a variety of building sizes that incorporate commercial retail, services, and office uses that typically have on-site parking, most often located in front of and around the buildings. Regional Commercial areas typically contain the largest scale commercial and office uses that attract local residents as well as people from the surrounding region.

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### **Section F: Notification**

The Planning Department mailed Public Hearing Notices to the owners of 35 properties within 500 feet of the subject property per statute requirements. Staff posted a sign at the site advertising the public hearing for the conditional use requests for 3000 Dixie Highway.

As of the writing of this report, the Planning Department received no phone calls or inquiries pertaining to the proposal for a Conditional Use.

### **Section G: Recommendations**

The Planning Commission can recommend to City Council to approve or deny the Conditional Use Application for Automotive Service and Minor Repair and can approve or deny the five (5) variance requests.

If Planning Commission decides to approve the Conditional Use application and Variance requests, the Planning Department recommends the following motions:

1. That the Planning Commission take action to recommend to City Council to approve of the Conditional Use application for Automotive Service and Minor Repair), subject to the recommended conditions of approval.
2. That the Planning Commission take action to approve the variance request to the landscaping requirements in the Commercial Design Standards.
3. That the Planning Commission take action to approve the variance request to the materials requirements in the Commercial Design Standards.
4. That the Planning Commission take action to approve the variance request to the transparency requirements in the Commercial Design Standards.
5. That the Planning Commission take action to approve the variance request to the 10-foot setback requirement in Section 1123.38.2 of the HZO.
6. That the Planning Commission take action to approve the variance request to the parking and access drive setback requirement in Section 1123.38.2 of the HZO.

*Report continued on the next page*



**Conditions of Approval:**

1. The project shall be compliant with the Commercial Design Standards set forth in Section 1111.00 of the Hamilton Zoning Ordinance with the exceptions noted in the variance requests and as approved by Planning Commission and City Council.
2. There shall be no window signs or other obstructions in the building. All windows will have an opacity maximum of 35% except for the glass block window on the side elevation facing Bobmeyer Road.
3. The HVAC equipment will be screened per the Commercial Design Standards.
4. All proposed and future signage (permanent or temporary) on site shall comply with the regulations of the Hamilton Zoning Ordinance.
5. Construction drawings and documents for the proposed improvements and work shall be revised subject to any current interdepartmental review comments, and future review requirements of the City of Hamilton Interdepartmental Review.
6. All landscaping, site improvements, exterior finishes and other improvements shall be installed and maintained in good repair and replaced as necessary to remain in compliance with the relevant City of Hamilton codes.
7. All automotive service or repair shall occur indoors.
8. No exterior storage or exterior sales of merchandise or material on the site in question, including but not limited to auto parts and tires.
9. No salvaging of parts of vehicles shall occur on site.
10. No vehicles shall be parked on gravel, grass, or unpaved surfaces.
11. That a lot combination of Parcel P6462006000079 and the future parcel currently owned by the City of Hamilton shall be completed prior to any new construction work being done on the site in question.
12. No vehicles shall be parked on the multiuse path easement. When the multiuse path is built, vehicles will be setback from the multiuse path at a safe distance.
13. All fluids, tires, batteries, and other discarded hazardous materials shall be recycled or removed in accordance with local, state, and federal standards.
14. The dumpster shall be enclosed by a solid wooden fence to be sufficiently screened from view from right-of-way, in accordance with the Commercial Design Standards.

*Report continued on the next page*

15. The City of Hamilton shall track public safety calls and nuisance complaints associated with the applicant and the property. If issues are identified, the property owners and business operators will work with the City to rectify issues. If issues are not resolved in a timely manner, the Conditional Use may be revoked.

#### **Section H: Staff Basis / Comments**

Staff provided the following basis / comments for consideration of approval of the Conditional Use application:

1. The site is already being used for Automotive Service and Minor Repair. The proposed expansion represents a \$600,000 investment on Route 4 that will improve aesthetics and site access.
2. The proposed expansion will make productive use out of a parcel that has issues with trespassing and dumping.
3. The project includes a multiuse path easement to be used for the future Miami 2 Miami trail.
4. The proposed use and development will comply with regulations set forth by applicable City departments.

Staff provided the following basis / comments for consideration of approval of the Variance requests:

1. Variance request to the landscaping requirements in the Commercial Design Standards.
  - a. Exceptional Circumstances: The property owner has agreed to an easement for a multiuse path in the area best suited for landscaping.
  - b. Preservation of Property Rights: The proposed design allows the property owner to make an overall improvement on the site that includes enough parking to make the redevelopment project feasible for the business operations.
  - c. Absence of Detriment: The project will add landscaping to a site that currently does not have any landscaping, which will improve the aesthetics on this corridor.
  - d. Not of a General Nature: The easement for the multiuse path is a unique situation. The Miami 2 Miami Regional trail will be along this route, and this is a key connection to Dixie Highway/Route 4.

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2. Variance request to the materials requirements in the Commercial Design Standards.
  - a. Exceptional Circumstances: While they are on different sides of Bobmeyer Road, Auto Express operates 2980 and 3000 Dixie as a single campus. This variance allows Auto Express to maintain a similar design on both sites. 2980 Dixie Highway was approved prior to the 2017 update to the Hamilton Zoning Ordinance that restricted metal panels to 25% maximum of the building materials.
  - b. Preservation of Property Rights: The variance allows the property owner to make an improvement to his property.
  - c. Absence of Detriment: The metal panels are an improvement on the painted cinderblock buildings that are currently on site.
  - d. Not of a General Nature: Auto Express' desire to coordinate the design of its buildings is not of a general nature. Auto Express' new building at 2980 Dixie Highway has been built in the last three years. It is a unique situation that the Commercial Design Standards have been changed within three years of redevelopment work by Auto Express.
  
3. Variance request to the transparency requirements in the Commercial Design Standards.
  - a. Exceptional Circumstances: The layout of the site and the requirements of the business operation made the most appropriate place for bathrooms to be at the north side of the property. Glass block windows are proposed for the bathrooms for privacy reasons.
  - b. Preservation of Property Rights: The variance allows the property owner to build a new building that includes all of the uses desired by the property owner within the context of the site constraints.
  - c. Absence of Detriment: The transparency of the north elevation increases from the current building's transparency. The front façade facing Dixie Highway's transparency exceeds the transparency requirements.
  - d. Not of a General Nature: 3000 Dixie is a smaller site with utility easements that dictate where a building can be built. Given the site constraints and drive-through nature of the detailing facility, the bathroom location on the north side of the building is the best location to allow for safe site circulation.
  
4. Variance request to the 10 foot setback requirement in Section 1123.38.2 of the HZO.

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- a. Exceptional Circumstances: Auto Express is providing a six (6) foot easement for a multiuse path to the City of Hamilton along Bobmeyer Road. The easement is in addition to the existing sidewalk area, meaning that the setback from Bobmeyer is approximately 12 foot. Given the unique need for the easement along Bobmeyer, the property owner would like to have a reduced setback along Dixie Highway.
  - b. Preservation of Property Rights: The variance allows the property owner to make an improvement to his property while continuing to have some parking spaces in front of the building, which is a typical site layout for Route 4.
  - c. Absence of Detriment: Removing the gravel area on the property currently owned by the City of Hamilton that is often a dumping ground and replacing it with parking is an improvement to the area. The multiuse path easement will be a community improvement.
  - d. Not of a General Nature: The multiuse path easement and the improvement to the City-owned property are both unique situations to 3000 Dixie.
5. Variance request to the parking and access drive setback requirement in Section 1123.38.2 of the HZO.
- a. Exceptional Circumstances: The City of Hamilton Engineering staff have requested that the new access drive on Bobmeyer Road be as far away from the Bobmeyer/Dixie Highway intersection as possible for safety concerns.
  - b. Preservation of Property Rights: Maintaining the existing parking space adjacent to the south property line preserves the owner's ability to park cars on site. The curved nature of the property frontage limits the ability to park cars on site.
  - c. Absence of Detriment: The proposed site design replaces a continuous curb cut on Bobmeyer with a more defined entrance further away from the intersection. This will be a safety improvement.
  - d. Not of a General Nature: This is a corner lot that due to site distance issues, has parking and access restraints.

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**Section I: Attachments:**

- 1) Exhibit A - [Location Map](#)
- 2) Exhibit B - [Application and Project Details](#)
- 3) Exhibit C - [Zoning Map](#)
- 4) Exhibit D - [Public Hearing Notice](#)
- 5) Exhibit E - [Recommended Conditions of Approval](#)

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3000 Dixie Highway - Conditional Use  
Exhibit F - Conditions of Approval

**3000 Dixie Highway, Conditional Use w Variances – Recommended Conditions of Approval**

<b>BASIC INFORMATION</b>	
<b>Applicant/Property Owner</b>	Steven Gebhart, for Community Design Alliance, applicant Josh Sellers / Auto Express of Hamilton, property owner
<b>Architect/Engineer/Consultant</b>	Community Design Alliance
<b>Size of Property</b>	0.46
<b>Current Zoning</b>	I-1 (Limited Industrial) Zoning District
<b>Requests</b>	Conditional Use request for automotive service and minor repair; and five (5) variances to the Hamilton Zoning Ordinance associated with the CU request
<b>Size of Revision</b>	0.46 acres

**Conditions of Approval**

1. The project shall be compliant with the Commercial Design Standards set forth in Section 1111.00 of the Hamilton Zoning Ordinance with the exceptions noted in the variance requests and as approved by Planning Commission and City Council.
  - a. Planning Commission voted to approve the following variances at their July 16<sup>th</sup>, 2020 meeting:
    - i. Variance to the Commercial Design Standards for a building materials variance to allow for architectural grade metal panels for 87% of the building material.
    - ii. Variance to the Commercial Design Standards to allow Auto Express to use glass block windows to meet the transparency requirements for the side building elevation facing Bobmeyer Road.
    - iii. Variance to the Automotive Service and Minor Repair regulations to allow for a zero (0) foot setback from the property lines for parking of vehicles.
    - iv. Variance to the Automotive Service and Minor Repair regulations to allow for a zero (0) foot setback for driveway and parking distances from adjacent property lines.
  - b. Planning Commission voted to deny the following variance at their July 16<sup>th</sup>, 2020 meeting:
    - i. Variance to the Commercial Design Standards to reduce the landscaping requirement by four (4) trees or the equivalent of four (4) trees is denied.

2. There shall be no window signs or other obstructions in the building. All windows will have an opacity maximum of 35% except for the glass block window on the side elevation facing Bobmeyer Road.
3. The HVAC equipment will be screened per the Commercial Design Standards.
4. All proposed and future signage (permanent or temporary) on site shall comply with the regulations of the Hamilton Zoning Ordinance.
5. Construction drawings and documents for the proposed improvements and work shall be revised subject to any current interdepartmental review comments, and future review requirements of the City of Hamilton Interdepartmental Review.
6. All landscaping, site improvements, exterior finishes and other improvements shall be installed and maintained in good repair and replaced as necessary to remain in compliance with the relevant City of Hamilton codes.
7. All automotive service or repair shall occur indoors.
8. No exterior storage or exterior sales of merchandise or material on the site in question, including but not limited to auto parts and tires.
9. No salvaging of parts of vehicles shall occur on site.
10. No vehicles shall be parked on gravel, grass, or unpaved surfaces.
11. That a lot combination of Parcel P6462006000079 and the future parcel currently owned by the City of Hamilton shall be completed prior to any new construction work being done on the site in question.
12. No vehicles shall be parked on the multiuse path easement. When the multiuse path is built, vehicles will be setback from the multiuse path at a safe distance.
13. All fluids, tires, batteries, and other discarded hazardous materials shall be recycled or removed in accordance with local, state, and federal standards.
14. The dumpster shall be enclosed by a solid wooden fence to be sufficiently screened from view from right-of-way, in accordance with the Commercial Design Standards.
15. The City of Hamilton shall track public safety calls and nuisance complaints associated with the applicant and the property. If issues are identified, the property owners and business operators will work with the City to rectify issues. If issues are not resolved in a timely manner, the Conditional Use may be revoked.

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE APPROVING A REQUEST FOR A CONDITIONAL USE CERTIFICATE TO OPERATE AN AUTOMOTIVE SERVICE AND MINOR REPAIR BUSINESS AT 3000 DIXIE HIGHWAY, PROPERTY ZONED I-1 LIMITED INDUSTRIAL ZONING DISTRICT, SITUATED IN THE SIXTH WARD, CITY OF HAMILTON, OHIO.**

WHEREAS, the Administration of the City of Hamilton, Ohio received an application for a Conditional Use request on behalf of Auto Express to expand their automotive service and minor repair business at 3000 Dixie Highway, Parcel Numbers P6462006000079 and P6462006000073, as referenced in Exhibit No. 1; and

WHEREAS, 1123.38.2 of the Hamilton Zoning Ordinance (HZO), Classifies Automotive Service and Minor Repair as a Conditional Use Approval in the "I-1", (Limited Industrial) Zoning District; and

WHEREAS, Section 1155.00 of the Hamilton Zoning Ordinance requires that Conditional Uses to be reviewed by the Planning Commission and a recommendation forwarded to City Council; and

WHEREAS, Auto Express currently operates a business for automotive service and minor repair at 3000 Dixie Highway but is proposing to demolish the existing buildings, build a new building for automotive service and minor repair, and expand the parking lot to include a portion of Parcel P6462006000073 currently owned by the City of Hamilton; and

WHEREAS, Auto Express requested five (5) variances to the regulations for Automotive Service and Minor Repair and the Commercial Design Standards of the HZO in conjunction with the Conditional Use application; and

WHEREAS, Planning Commission approved four (4) variances and denied one (1) to the regulations for Automotive Service and Minor Repair and the Commercial Design Standards of the HZO; and

WHEREAS, Planning Commission approved the variances for transparency, building materials, and two (2) setback variances; and

WHEREAS, Planning Commission denied the landscaping variance request, therefore Auto Express will have to fulfill the landscaping requirements of the Commercial Design Standards if the Conditional Use is approved; and

WHEREAS, the Planning Department notified all of the owners of property located within five hundred (500) feet of the area in question of a public hearing request for a conditional use for automotive service and minor repair at 3000 Dixie Highway, held at the Hamilton Planning Commission meeting of July 16, 2020; and

WHEREAS, the City Planning Commission held a public meeting, considered the conditional use request, site plan, written information provided by the applicant, findings, and the Conditional Use Review Criteria – General Standards, the Planning Commission; and

WHEREAS, Planning Commission recommended that City Council approve the request to allow Auto Express to operate an automotive service and minor repair business at 3000 Dixie Highway zoned "I-1" (Limited Industrial) District as referenced in Exhibit No. 1 as proposed and with the conditions as listed in Exhibit No.2, situated in The City of Hamilton, Butler County, Ohio, Sixth Ward;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hamilton, Ohio:

SECTION I: That this Council accepts the recommendation of the Planning Commission and hereby approves the request to establish a Conditional Use to operate an automotive service and minor repair business at 3000 Dixie Highway, as indicated in Exhibit No.1, subject to the conditions of approval outlined in Exhibit No. 2; for the following rationale:

**Ordinance No.** \_\_\_\_\_ **(Cont'd)**

1. The site is already being used for Automotive Service and Minor Repair. The proposed expansion represents a \$600,000 investment on Route 4 that will improve aesthetics and site access.
2. The proposed expansion will make productive use out of a parcel that has issues with trespassing and dumping.
3. The project includes a multiuse path easement to be used for the future Miami 2 Miami Trail.
4. The proposed use and development will comply with regulations set forth by applicable City departments.

SECTION II: This ordinance shall take effect and be in full force from and after the earliest period allowed by law after its passage.

PASSED: \_\_\_\_\_

\_\_\_\_\_  
Mayor

Effective Date: \_\_\_\_\_

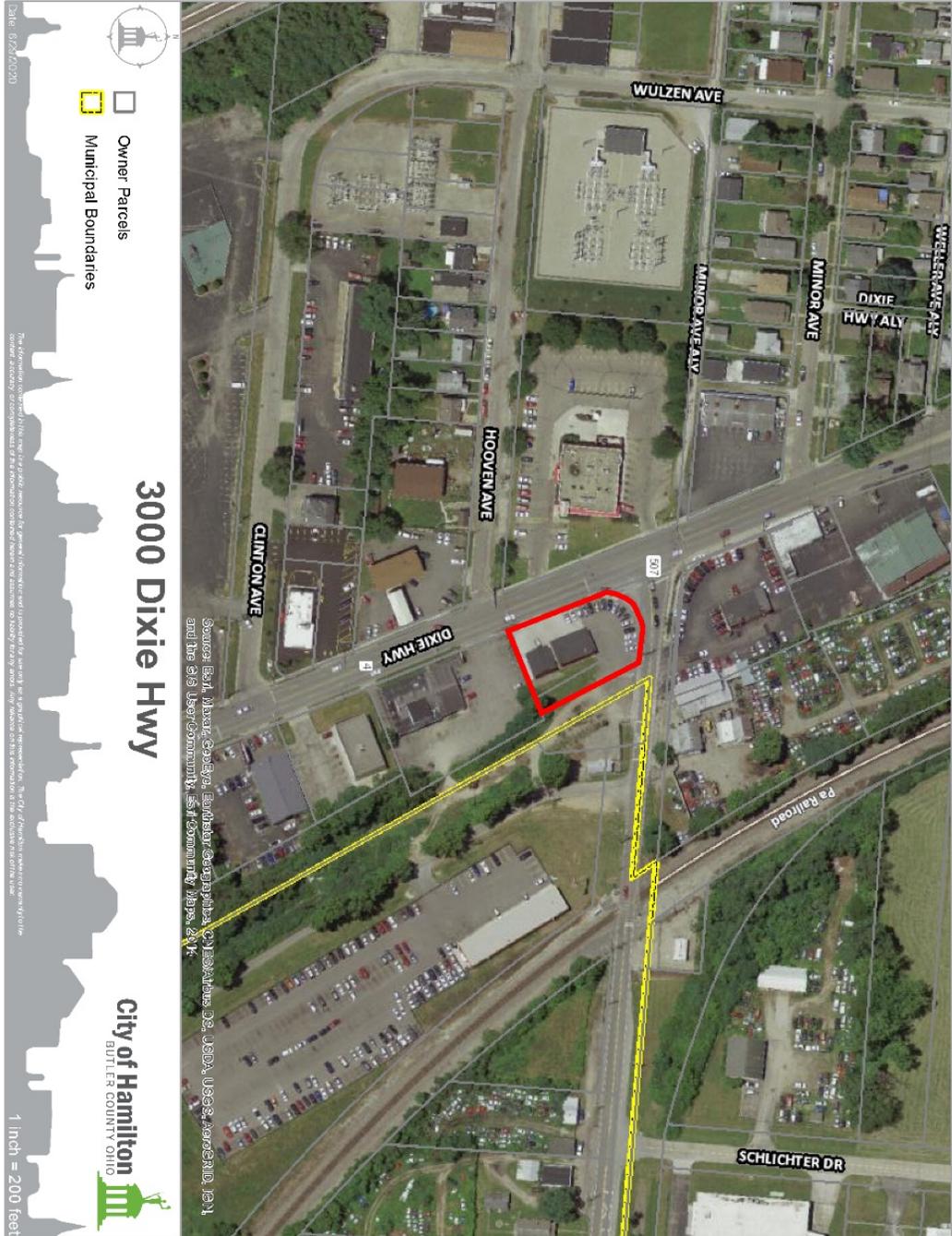
ATTEST: \_\_\_\_\_  
City Clerk

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk of the City of Hamilton, Ohio, State of Ohio, hereby certify that the foregoing Ordinance No. \_\_\_\_\_ was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in the lobby of City Hall for a period of ten days. POSTED: \_\_\_\_\_.

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**

**EXHIBIT NO.1**



Ordinance No. \_\_\_\_\_ (Cont'd)

**EXHIBIT NO. 2**

**Conditions of Approval (3000 Dixie Highway, Conditional Use)**

1. The project shall be compliant with the Commercial Design Standards set forth in Section 1111.00 of the Hamilton Zoning Ordinance with the exceptions noted in the variance requests and as approved by Planning Commission and City Council.
  - a. Planning Commission voted to approve the following variances at their July 16<sup>th</sup>, 2020 meeting:
    - i. Variance to the Commercial Design Standards for a building materials variance to allow for architectural grade metal panels for 87% of the building material.
    - ii. Variance to the Commercial Design Standards to allow Auto Express to use glass block windows to meet the transparency requirements for the side building elevation facing Bobmeyer Road.
    - iii. Variance to the Automotive Service and Minor Repair regulations to allow for a zero (0) foot setback from the property lines for parking of vehicles.
    - iv. Variance to the Automotive Service and Minor Repair regulations to allow for a zero (0) foot setback for driveway and parking distances from adjacent property lines.
  - b. Planning Commission voted to deny the following variance at their July 16<sup>th</sup>, 2020 meeting:
    - i. Variance to the Commercial Design Standards to reduce the landscaping requirement by four (4) trees or the equivalent of four (4) trees is denied.
2. There shall be no window signs or other obstructions in the building. All windows will have an opacity maximum of 35% except for the glass block window on the side elevation facing Bobmeyer Road.
3. The HVAC equipment will be screened per the Commercial Design Standards.
4. All proposed and future signage (permanent or temporary) on site shall comply with the regulations of the Hamilton Zoning Ordinance.
5. Construction drawings and documents for the proposed improvements and work shall be revised subject to any current interdepartmental review comments, and future review requirements of the City of Hamilton Interdepartmental Review.
6. All landscaping, site improvements, exterior finishes and other improvements shall be installed and maintained in good repair and replaced as necessary to remain in compliance with the relevant City of Hamilton codes.
7. All automotive service or repair shall occur indoors.
8. No exterior storage or exterior sales of merchandise or material on the site in question, including but not limited to auto parts and tires.

**Ordinance No. \_\_\_\_\_ (Cont'd)**

9. No salvaging of parts of vehicles shall occur on site.
10. No vehicles shall be parked on gravel, grass, or unpaved surfaces.
11. That a lot combination of Parcel P6462006000079 and the future parcel currently owned by the City of Hamilton shall be completed prior to any new construction work being done on the site in question.
12. No vehicles shall be parked on the multiuse path easement. When the multiuse path is built, vehicles will be setback from the multiuse path at a safe distance.
13. All fluids, tires, batteries, and other discarded hazardous materials shall be recycled or removed in accordance with local, state, and federal standards.
14. The dumpster shall be enclosed by a solid wooden fence to be sufficiently screened from view from right-of-way, in accordance with the Commercial Design Standards.
15. The City of Hamilton shall track public safety calls and nuisance complaints associated with the applicant and the property. If issues are identified, the property owners and business operators will work with the City to rectify issues. If issues are not resolved in a timely manner, the Conditional Use may be revoked.

## City Council Meeting Staff Report

**Report To:** The Honorable Mayor Patrick Moeller & Members of the City Council

**Report From:** Edward Wilson III, AICP, Associate Planner II

**Agenda Item:** An ordinance vacating a portion of Arch Street Alley “A”, located between South C Street and South D Street, situated in the First Ward, South Side, City of Hamilton, Ohio. (City of Hamilton, Applicant).

<p><b>Approvals/Reviews</b> <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i></p>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	<p><b>Related Strategic Goal(s)</b></p> <input checked="" type="checkbox"/> <b>I</b> Realize new investments <input type="checkbox"/> <b>J</b> Increase gross wages <input checked="" type="checkbox"/> <b>P</b> Increase property values <input type="checkbox"/> <b>R</b> Generate recreational investments <input type="checkbox"/> <b>E</b> Engage citizens in activities <input checked="" type="checkbox"/> <b>O</b> General operations
<p><b>Ordinance or Resolution</b> <i>Ordinance</i></p>	<input checked="" type="checkbox"/> 1 <sup>st</sup> Reading Date: 8-12-2020 <input checked="" type="checkbox"/> 2 <sup>nd</sup> Reading Date: 8-26-2020 <input type="checkbox"/> Resolution Date: <input type="checkbox"/> Public Hearing Date:	
<p><b>Prior Action/Review</b> <i>Please note if this item was discussed on a prior Council or other agenda</i></p>	<p><b>City Council (or other):</b> Caucus Report Council Meeting 7-22-2020 Planning Commission: 7-16-2020</p>	
<p><b>Contract</b></p>	<input type="checkbox"/> Contract Required	<input checked="" type="checkbox"/> Additional Document(s) Attached
<p><b>Fiscal Impact</b></p>	<p>Budgeted: \$200.00</p>	<p><i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i></p>
	<p>Expenditure: \$200.00</p>	
	<p>Source Funds:</p>	

**Policy Issue**

Does City Council wish to vacate one (1) portion of right of way, a portion of Arch Street Alley A, located between South C Street and South D Street, situated in the First Ward, South Side, City of Hamilton, Ohio?

**Policy Alternative(s)**

Council may choose not to adopt an ordinance to vacate one (1) portion of right of way, a portion of Arch Street Alley A, located between South C Street and South D Street, situated in the First Ward, South Side, City of Hamilton, Ohio.

**Staff Recommendation**

Staff recommends that Council receives this report, concurs in the recommendation of the Planning Commission, and adopts the necessary legislation to vacate one (1) portion of right of way, a portion of Arch Street Alley A, located between South C Street and South D Street, situated in the First Ward, South Side, City of Hamilton, Ohio, based on the Planning Commission’s recommendation to approve from its July 16, 2020 meeting.



## **Statutory/Policy Authority**

- Section 3.09, Legislative Procedure, of the Charter of the City of Hamilton.
- Chapter 167.07 of the Hamilton Codified Ordinances.

## **Fiscal Impact Summary**

The City's current fiscal impact includes any staff time allotted to the preparation of the documentation for the proposed vacation one (1) portion of right of way, a portion of Arch Street Alley A, located between South C Street and South D Street, situated in the First Ward, South Side, City of Hamilton, Ohio, estimated at approximately \$200.00.

## **Background Information**

This submitted request is for the vacation of a portion of Arch Street Alley A. The specific portion of alley is an unimproved, vacant, east-west alley located at the 300 block of South C Street. The request for the alley vacation is part of a request from the owner of the abutting vacant properties, Hicks Blvd, LLC. Hicks Blvd, LLC. expressed an interest in complying with Health Department orders, cleaning up the property and clear out the honeysuckle. However, the Hicks Blvd LLC prefers vacation of the right-of-way as part of this proposal.

Please note that the vacation petition only pertains to the portion of Arch Street Alley "A", it does not include the adjacent "dog-leg" unnamed right-of-way (known as Arch Street Alley "B").

- Upon review, the Planning Staff and Planning Commission received concerns and objections from residents abutting Arch Street Alley "B", and thus the request to vacate was withdrawn.
- There was no objection to the proposed vacation of the subject alley: Arch Street Alley "A".

## **Arch Street Alley "A" Vacation:**

The overall portion of alley in question measures 199.65 feet in length, is 10 feet in width, and contains right-of-way of approximately 1,996 square feet. The alley is unimproved, and contains no street curb-cut for vehicular access. This alley dead ends into the rear of 350 South D Street and serves no discernable access or right-of-way connection. Arch Street Alley "A" also contains no utilities within the right-of-way.

Specific information pertaining to the properties adjacent to the right-of-ways being proposed for vacation is as follows:

- Parcel: P6412113000031 – Owner: Hicks Blvd, LLC.  
(City Lot No. 190 X 10 ADJ 1683)
- Parcel: P6412113000032 – Owner: Hicks Blvd, LLC.  
(City Lot No. 1684 ENT)
- 350 South D Street – Owner: Joyce Ann Davin, TR  
Parcel: P6412113000033, (City Lot No. OL 37 N 80 OF W 139.59)

## **Interdepartmental Review**

The City's Interdepartmental Review Committee evaluated the proposed vacation of a portion of Arch Street Alley, "A". There were no objections to the proposal.

- Note that there are no utilities within the right-of-way in question.



**Alley Vacation Process. / Codified Ordinance, Chapter 167.07**

The City Council can approve or deny the request for an alley vacation and may modify or add any additional conditions to the alley vacation request.

The statutes of Chapter 167.07 of the City of Hamilton’s Codified Ordinances regulate vacation or abandonment of public right-of-way (alleys, streets, etc.).

- Planning Commission provides a favorable recommendation,
- The alley vacation proposal is forwarded to City Council.
- If the alley vacation is city-led and has no objections, it can proceed as an ordinance to vacate.

Typically, right-of-way vacations proceed with appraisal of the alley and Board of Revisions of Assessments. However, with the City of Hamilton as applicant, the petition to vacate may proceed to City Council as a resolution to vacate, followed by an ordinance to vacate the right-of-way.

**Notification**

The Planning Department mailed Public Hearing Notices to the owners of 18 properties within 200 feet of the subject property per statute requirements. This mailing also includes seven (7) owners of property abutting the alley in question.

Staff posted a sign at the site, advertising the public hearing for proposed vacation of a portion of Arch Street Alley “A”.

Planning Staff received no objections from the public in general or from the public hearing at the Planning Commission pertaining to the proposed vacation of Arch Street Alley “A”.

**Planning Commission Recommendation:**

After conducting a public hearing on July 16, 2020, the Planning Commission recommended Council approve the alley vacation of a portion of Arch Street Alley “A” with the following conditions:

- 1) The construction drawings for the proposed work, including site/engineering plans, shall be revised subject to any future requirements of the City Interdepartmental Review (IDR) Committee upon review.
- 2) That the City Council waive its right to a hearing before the Board of Revisions of Assessments because the petition for vacation has been submitted by the City of Hamilton.
- 3) That the City Council waive the requirement for an appraisal of the property to be vacated because the petition for vacation has been submitted by the City of Hamilton.
- 4) That the City Council waive the customary two-thirds payment of the appraised value of the vacated property because the petition for vacation has been submitted by the City of Hamilton.

It is the recommendation of the Planning Department that Council receives this report, concurs in the recommendation of the Planning Staff and the Planning Commission, and directs the passage of the necessary legislation.



**Attached Information**

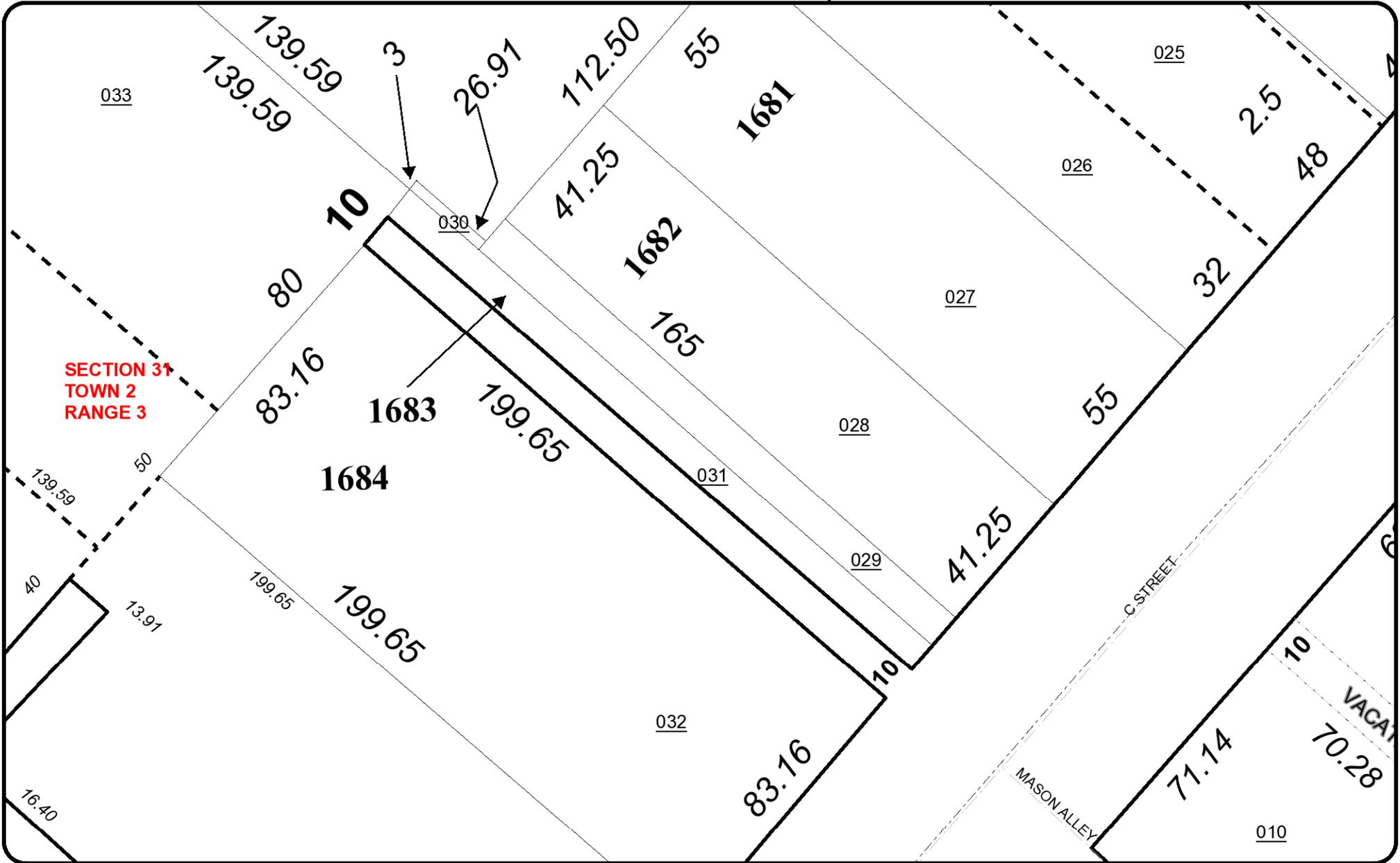
- 1) Exhibit A – Location Map
- 2) Exhibit B – Exhibit Map of Arch Street Alley “A”
- 3) Exhibit C – Petition to Vacate
- 4) Exhibit D – Existing Conditions
- 5) Exhibit E – Public Hearing Notice letters
- 6) Exhibit F – Planning Commission Staff Report, July 16, 2020
- 7) Exhibit G – Recommended Conditions of Approval

**Copies Provided to:**

- Rich Engle, P.E., Director of Engineering







BUTLER COUNTY ENGINEER'S OFFICE



GREGORY J. WILKENS, PE., P.S. BUTLER COUNTY ENGINEER

March 17, 20



Caucus Report  
March 25, 2020

### City Council Meeting Caucus Report

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**TO:** The Honorable Mayor and Members of the City Council

**RE:** Petition: request to vacate two (2) portions of right of way, which includes a portion of Arch Street Alley, and a portion of unnamed alley; both portions of right-of-way located between South C Street and South D Street, situated in the First Ward, South Side, City of Hamilton, Ohio. (City of Hamilton, Applicant)

<input type="checkbox"/>	1 <sup>st</sup> Reading Date:
<input type="checkbox"/>	2 <sup>nd</sup> Reading Date:
<input type="checkbox"/>	Resolution Date:
<input type="checkbox"/>	Public Hearing Date:

Dear Mayor and Members of Council:

The City of Hamilton Planning Department submitted a petition to vacate two (2) portions of right of way between South C Street and South D Street. The subject rights of way abut four (4) vacant properties at the 300 block of South C Street located at the Millikin Street intersection (Parcel Nos. #P6412113000031 & 32, and #P6412121000038, & 40).

The two (2) portions of right of way include the following:

- Arch Street Alley is located between parcels #P6412113000031 & 32, and abuts 350 South D Street to the rear. This alley runs east-west, measuring one-hundred ninety-nine, point six five feet (199.65') in length and ten feet (10') in width. This is an unimproved right-of-way, leading to a vegetation area. The right-of-way also has no point of access from the street.
- The unnamed right-of-way is located between parcels #P6412121000040 & 42. The unnamed right-of-way also abuts properties 372, 374, & 376 South D Street and 220 & 222 Millikin Street to the rear. This alley runs east-west for one-hundred, eighty-two, point nine zero feet (182.90') and angles north-south seventy-five feet (75'). This is also an unimproved right-of-way with a variable measurement, featuring different widths throughout the course of the right-of-way. The majority of the unnamed right-of-way is vacant land with vegetation.

Per External Services records, via the Health Department, the right-of-way and abutting vacant properties have been a constant site for dumping, with several instances of litter and trash found in the area. Additionally, the owner of the vacant properties, Hicks Blvd, LLC, expressed an interest in complying with Health Department orders, cleaning up the property and clear out the honeysuckle. However, the owner prefers vacation of the right-of-way as part of this proposal.

It is the recommendation of this office that Council receives this petition and recommends that it be forwarded to the City Planning Commission for review, public hearing and recommendation.

Sincerely,

Caucus Report Prepared By:

Joshua A. Smith  
City Manager

Ed Wilson, AICP  
Associate Planner II

**Choose Strategic Goal(s)**

- I** Generate 125mm in new private investment
- J** Increase gross wages paid by Hamilton Employers by \$100mm
- P** Exceed total county growth rate median home sale prices
- R** Generate \$40mm in investment for recreational amenities
- E** Engage 50,000 participants annually in special events, arts and recreation activities
- O** General Operations/ Government Business

Attachments:

1. Exhibit A - Location Map of the Arch Street Alley and Unnamed Alley
2. Exhibit B - Exhibit Map of Arch Street Alley and Unnamed Alley



Arch Street Alley Vacation  
Exhibit D - Existing Conditions





July 1, 2020

**NOTICE OF PUBLIC HEARING**

Attention Property Owner:

The City of Hamilton Planning Commission will hold a public hearing on **Thursday evening, July 16, 2020 at 6:00 P.M.** in the Council Chambers of the City Building located at 345 High Street, and via Zoom online webinar, at: <https://zoom.us/j/91172580559>. Webinar ID: 911 7258 0559.

The agenda for this hearing includes the following item:

- LOCATION:** Two (2) unimproved/vacant alleys abutting four (4) vacant, undeveloped, properties at the corner of South C Street and Millikin Street. See map on the reverse side.
- APPLICANT:** City of Hamilton
- REQUEST:** The applicant petitioned to vacate two (2) portions of rights-of-way, situated in the First Ward, South Side.

The proposed alley vacation means that the portion of alley in question would no longer be public right-of-way, meaning that the public could not use the alley for public access (driving, vehicles, parking, or pedestrian use).

***You are a property owner within 200 feet of the subject property and as such are required by statute to be notified of this public hearing.***

An application for this project (revised site plan, images) as well as the Commission Bylaws are on file in our office and available for your review. These materials, in addition to future updates and reports completed by staff during the review process, can be found online at: <https://www.hamilton-oh.gov/planningcommission>

The Planning Commission Agenda containing the staff report, application, and site plans will be updated as we approach the date of the Planning Commission meeting: Agenda link - <https://tinyurl.com/pc07162020>.

Due to recent state mandates, the Planning Commission meeting shall be held remotely. Staff will hold the meeting through an online service and allow citizens to call into the meeting or access the meeting via website. We encourage you to access the meeting through the options below.

**Call: 1 (929) 205-6099 and when prompted dial the Webinar ID: 911 7258 0559**

**Or use this website link to access the online meeting: <https://zoom.us/j/91172580559>**

If you have any questions or comments concerning this matter, please forward your comments in writing for presentation at the meeting, or, please contact the Planning Department via email at [planning@hamilton-oh.gov](mailto:planning@hamilton-oh.gov) or contact **Ed Wilson, AICP** or **Liz Hayden, Planning Director** of the City of Hamilton Planning Department at (513) 785-7350.

Sincerely,

*Edward Wilson III, AICP*

Mr. Ed Wilson, AICP  
Associate Planner II

**See Reverse Side for Public Hearing Notification Map**



July 1, 2020

**NOTICE OF PUBLIC HEARING**

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The City of Hamilton Planning Commission will hold a public hearing on **Thursday evening, July 16, 2020 at 6:00 P.M.** in the Council Chambers of the City Building located at 345 High Street, and via Zoom online webinar, at: <https://zoom.us/j/91172580559>. Webinar ID: 911 7258 0559.

The agenda for this hearing includes the following item:

- LOCATION:** Two (2) unimproved/vacant alleys abutting four (4) vacant, undeveloped, properties at the corner of South C Street and Millikin Street. See map on the reverse side.
- APPLICANT:** City of Hamilton
- REQUEST:** The applicant petitioned to vacate two (2) portions of rights-of-way, situated in the First Ward, South Side.

The proposed alley vacation means that the portion of alley in question would no longer be public right-of-way, meaning that the public could not use the alley for public access (driving, vehicles, parking, or pedestrian use).

***You are an owner of property that directly abuts the alley proposed for vacation/abandonment.***

Per Chapter 167.07 of the City of Hamilton's Codified Ordinances, if you do not participate this public hearing to voice objection or do not object to the Planning Commission in writing, this shall be considered agreement with the proposed alley vacation.

An application for this project (revised site plan, images) as well as the Commission Bylaws are on file in our office and available for your review. These materials, in addition to future updates and reports completed by staff during the review process, can be found online at: <https://www.hamilton-oh.gov/planningcommission>

The Planning Commission Agenda containing the staff report, application, and site plans will be updated as we approach the date of the Planning Commission meeting: Agenda link - <https://tinyurl.com/pc07162020>.

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If you have any questions or comments concerning this matter, please forward your comments in writing for presentation at the meeting, or, please contact the Planning Department via email at [planning@hamilton-oh.gov](mailto:planning@hamilton-oh.gov) or contact **Ed Wilson, AICP** or **Liz Hayden, Planning Director** of the City of Hamilton Planning Department at (513) 785-7350.

Sincerely,

*Edward Wilson III, AICP*

Mr. Ed Wilson, AICP  
Associate Planner II

**See Reverse Side for Public Hearing Notification Map**



Planning Department  
345 High Street, 3rd floor  
Hamilton, Ohio 45011

For the Planning Commission Meeting of July 16, 2020

To: Planning Commission  
From: Ed Wilson, AICP, Associate Planner II  
Date: July 7, 2020

Note: Only Arch St Alley A is proposed for vacation

Unnamed, Alley B has been withdrawn

Subject: **AGENDA ITEM #4 – New Business**  
**Arch Street Alley A & an Un-named Right-of-Way (at 366 South C Street) – Alley Vacation**

**APPLICANT:** City of Hamilton  
**LOCATION:** A portion of Arch Street Alley “A” and an un-named right-of-way (at 366 South C Street)  
**REQUEST:** To vacate a portion of Arch Street Alley “A” and an un-named right-of-way situated in the First Ward, South Side, City of Hamilton, Ohio.

BASIC INFORMATION		
Applicant/Property Owner	City of Hamilton, applicant & property owner	
Architect/Engineer/Consultant	N/A	
Size of Property	Arch Street Alley - 199.65 Feet of alley Unnamed Right-of-Way - 257.90 Feet of alley	
Current Zoning	N/A	
Requests	Vacate a portion of Arch Street Alley “A” and an un-named right-of-way.	
Size of Revision	Arch Street Alley - 199.65 Feet of alley Unnamed Right-of-Way - 257.90 Feet of alley	
ADJACENT LAND USE/ZONING INFORMATION		
Direction	Land Use	Zoning
North	N/A	N/A
South	N/A	N/A
East	N/A	N/A
West	N/A	N/A

**Staff Report Contents:**

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Section D: Notification.....	120
Section E: Recommendations.....	121
Section F: Staff Basis / Comments.....	122
Section G: Attachments.....	122



**Agenda Item #4**  
Arch St Alley A&B



**Planning Department**  
345 High Street, 3rd floor  
Hamilton, Ohio 45011

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*Report continued on the next page*





## **Section A: Introduction and Background**

### ***Section A.1: Project Overview***

The City of Hamilton Planning Department submitted a petition to vacate two (2) portions of right of way between South C Street and South D Street. The subject rights of way abut four (4) vacant properties at the 300 block of South C Street located at the Millikin Street intersection (Parcel Nos. #P6412113000031 & 32, and #P6412121000038, & 40). Per External Services records, via the Health Department, the right-of-way and abutting vacant properties have been a constant site for dumping, with several instances of litter and trash found in the area. Additionally, the owner of the vacant properties, Hicks Blvd, LLC, expressed an interest in complying with Health Department orders, cleaning up the property and clear out the honeysuckle. However, the Hicks Blvd LLC prefers vacation of the right-of-way as part of this proposal.

### ***Section A.2: Existing Site Conditions***

Arch Street Alley is an unimproved, vacant, east-west alley. The property dead ends at the rear of 350 South D Street, and has no corresponding curb cut apron or other point of public access from South C Street.

The Unnamed Alley (informally referred to as Arch Street Alley “B”) is a partially improved alley; the eastern portion connecting to South C Street is paved but deteriorated, while the western portion of alley is typically overtaken by weeds and other foliage.

Both subject rights-of-way abut four (4) contiguous vacant properties owned by Hicks Blvd, LLC. The unnamed alley abuts the rear of five (5) residential properties (see Section B). Please refer to Exhibit A, [Location Map](#); and Exhibit B, [Exhibit Map](#).

## **Section B: Petition Review**

### ***Section B.1: Submitted Request***

The City of Hamilton submitted a petition proposing vacation (abandonment) of the public right-of-way for a portion of Arch Street Alley A and a nearby unnamed right-of-way; both rights-of-way are located between South C Street and South D Street.

An alley vacation is a process in which an alley is reviewed for transference from public use to private property. Approval of an alley vacation means that the vacated portion of street will no longer be public right-of-way and the public could not use the alley for public access such as driving, parking, or walking.



In the event that any right-of-way vacation is approved, the land currently designated as right-of-way would be split down the centerline and each half (1/2) would be transferred to the adjacent property owners of record.

Specific information pertaining to the proposed alley for vacation is as follows:

***Section B.2: Petitions to Vacate Right-of-Way***

The two (2) portions of right of way include the following:

**Arch Street Alley “A”**

Between parcels #P6412113000031 & 32, and abuts 350 South D Street to the rear.

- Length: 199.65 feet
- Width: Ten (10') feet

**Adjacent Property Owners:**

Specific information pertaining to the properties adjacent to the right-of-way proposed for vacation is as follows:

- Parcel: P6412113000031 – Owner: Hicks Blvd, LLC.  
(City Lot No. 190 X 10 ADJ 1683)
- Parcel: P6412113000032 – Owner: Hicks Blvd, LLC.  
(City Lot No. 1684 ENT)
- 350 South D Street – Owner: Joyce Ann Davin, TR  
Parcel: P6412113000033, (City Lot No. OL 37 N 80 OF W 139.59)

***(Continued on next page)***





**Alley Vacation Request (Continued)**

**Unnamed Right-of-Way (“Arch Street Alley “B””)**

Abuts properties 372, 374, & 376 South D Street and 220 & 222 Millikin Street to the rear

- Length: 257 feet
  - 182.90 feet, east-west | thence 75 feet, north-south
- Width: Variable – Average is approximately 13.83 feet width.

**Adjacent Property Owners:**

Specific information pertaining to the properties adjacent to the right-of-way proposed for vacation is as follows:

- Parcel: P6412121000040 – Owner: Hicks Blvd, LLC.  
(City Lot No. OL37 SE99.5 X N176.26)
- Parcel: P6412121000038 – Owner: Hicks Blvd, LLC.  
(City Lot No. OL37 NE199.65)
- 220 Millikin Street – Owners: Sherri & Steve Dishon  
Parcel: P6412121000039, (City Lot No. OL 37 W 70 OF S 170 OF E 1/2)
- 222 Millikin Street – Owners: Danny Davidson  
Parcel: P6412121000031, (City Lot No. OL 37 E35 OF W166 1/2 OF S 170)
- 376 South D Street – Owners: Michael D. Wiley  
Parcel: P6412121000035, (City Lot No. 37 OL N39 OF S175 OF W131.59)
- 374 South D Street – Owner: Sally A. Mills  
Parcel: P6412121000036, (City Lot No. OL 37 N35 OF S210 OF E 139.59)
- 372 South D Street – Owners: William F Huber, TR  
Parcel: P6412121000037, (City Lot No. OL 37 N 40 OF S 250 OF E 139.59)



### ***Section B.3: Interdepartmental Review***

The city's Interdepartmental Review Committee evaluated the proposed vacation of a portion of Arch Street Alley, "A", and an unnamed right-of-way ("Alley B"). There were no objections to the proposal.

- Note that there are no utilities within the rights-of-way in question.

### **Section C: Statutes:**

#### ***Alley Vacation Process.***

The Planning Commission can approve or deny the request for an alley vacation and may modify or add any additional conditions to the street vacation request.

The statutes of Chapter 167.07 of the City of Hamilton's Codified Ordinances regulate vacation or abandonment of public right-of-way (alleys, streets, etc.).

- Planning Commission may vote on the street vacation, for or against.
- If the Planning Commission provides a favorable recommendation, the street vacation proposal is forwarded to City Council.
- If approved by City Council, the council adopts a resolution of intent to vacate.

Typically, right-of-way vacations proceed with appraisal of the alley and Board of Revisions of Assessments. However, with the City of Hamilton as applicant, the petition to vacate may proceed to City Council as a resolution to vacate, followed by an ordinance to vacate the right-of-way.

### **Section D: Notification**

The Planning Department mailed Public Hearing Notices to the owners of 18 properties within 200 feet of the subject property per statute requirements. This mailing also includes seven (7) owners of property abutting the alley in question (as noted in Section B of this report). Staff posted a sign at the site, advertising the public hearing for proposed vacation of a portion of Arch Street Alley "A" and the adjacent unnamed right-of-way.

The Planning Department received one (1) phone calls pertaining to the proposal.

***(Continued)***

*Report continued on the next page*





**Notification (Continued)**

- Ms. Sherri Dishon, at 220 Millikin Street.

Ms. Dishon noted that she utilizes the unnamed right-of-way at the rear of her property to walk to the bottom of her back yard easier. Ms. Dishon also uses the right-of-way as a smoother surface to roll her garbage can around the block.

Staff investigated the unnamed right-of-way, noting an uneven terrain and a physical barrier of foliage. Staff reached out to Ms. Dishon for clarification and Ms. Dishon explained that due to the topography the alley is the only way to access the rear yard of her property.

**Section E: Recommendations**

The Planning Commission can provide a favorable recommendation to City Council for the alley vacation, or recommend denial of each alley vacation or both alley vacation proposals. The Planning Department recommends the following motion to City Council:

That the Planning Commission take action to recommend that City Council adopt the necessary legislation to vacate the portion of Arch Street Alley "A" & the described unnamed right-of-way, situated in the First Ward, South Side, as displayed on the street vacation exhibit. The recommendation includes the following conditions:

**Conditions for Approval:**

- 1) The construction drawings for the proposed work, including site/engineering plans, shall be revised subject to any future requirements of the City Interdepartmental Review (IDR) Committee upon review.
- 2) That the City Council waive its right to a hearing before the Board of Revisions of Assessments because the petition for vacation has been submitted by the City of Hamilton.
- 3) That the City Council waive the requirement for an appraisal of the property to be vacated because the petition for vacation has been submitted by the City of Hamilton.
- 4) That the City Council waive the customary two-thirds payment of the appraised value of the vacated property because the petition for vacation has been submitted by the City of Hamilton.



### **Section F: Staff Basis / Comments**

Staff finds the proposed alley vacation to be consistent with the intent and purpose of right-of-way vacation and abandonment in the following ways:

1. Arch Street Alley “A” is an unimproved alley, consisting of vacant land, and no defined connections. The alley is also a dead-end alley and this proposed vacation would not result in a loss of connectivity or access to property.
2. The unnamed right-of-way is a partially improved alley way overtaken by growth and vegetation. The site is also a site of dumping and trash, requiring cost and time to consistently rectify. Hicks Blvd, LLC has expressed an interest in cleaning up and maintaining the properties and clearing invasive vegetation on the condition of vacating this right-of-way and Arch Street Alley “A”.
3. There are no existing utilities within the rights-of-way in question, meaning no need for utility department or other city access for maintenance issues.
4. The proposed vacation will not adversely impact the public health, safety, or welfare. No vehicular access to any privately owned property will be closed as a result of the proposed vacation.

### **Section G: Attachments**

The following attachments are listed in chronological order as they appear in the report.

1. Exhibit A - [Location Map](#)
2. Exhibit B - [Exhibit Map of Arch Street Alley “A” and Unnamed right-of-way \(Alley “B”\)](#)
3. Exhibit C - [Petition to Vacate](#)
4. Exhibit D - [Photos of existing conditions](#)
5. Exhibit E - [Public Hearing Notice letters](#)
6. Exhibit F - [Recommended Conditions of Approval](#)

*Report continued on the next page*



**Arch Street Alley Vacation  
Exhibit G - Conditions of Approval**

**Arch Street Alley Vacation – Recommended Conditions of Approval**

<b>BASIC INFORMATION</b>	
<b>Applicant/Property Owner</b>	City of Hamilton, applicant & property owner
<b>Architect/Engineer/Consultant</b>	N/A
<b>Size of Property</b>	Arch Street Alley - 199.65 Feet of alley
<b>Current Zoning</b>	N/A
<b>Requests</b>	Vacate a portion of Arch Street Alley "A" .
<b>Size of Revision</b>	Arch Street Alley - 199.65 Feet of alley

**Conditions of Approval:**

- 1) The construction drawings for the proposed work, including site/engineering plans, shall be revised subject to any future requirements of the City Interdepartmental Review (IDR) Committee upon review.
- 2) That the City Council waive its right to a hearing before the Board of Revisions of Assessments because the petition for vacation has been submitted by the City of Hamilton.
- 3) That the City Council waive the requirement for an appraisal of the property to be vacated because the petition for vacation has been submitted by the City of Hamilton.
- 4) That the City Council waive the customary two-thirds payment of the appraised value of the vacated property because the petition for vacation has been submitted by the City of Hamilton.

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE VACATING A PORTION OF ARCH STREET ALLEY "A", LOCATED BETWEEN SOUTH C STREET AND SOUTH D STREET, SITUATED IN THE FIRST WARD, SOUTH SIDE, CITY OF HAMILTON, OHIO.** (City of Hamilton, Applicant).

WHEREAS, the City of Hamilton requested vacation of a portion of Arch Street Alley "A", situated in the First Ward, South Side, City of Hamilton, Butler County, Ohio abutting Parcel Numbers P6412113000031 and P6412113000032; and

WHEREAS, said portion of Arch Street Alley "A" is an unimproved, vacant, east-west alley, 199.65 feet of length and 10 feet in width, containing approximately 1,996 square feet of right-of-way; and

WHEREAS, an adjacent owner of property expressed interest in cleaning up the vacant properties, and requests vacation of Arch Street Alley "A"; and

WHEREAS, the request for said vacation of a portion of Arch Street Alley "A", was reviewed by all City of Hamilton departments through Interdepartmental Review and was approved; and

WHEREAS, the Planning Department notified all of the owners of property located within 200 feet of the area in question of a public hearing on said request to be held at the Hamilton Planning Commission meeting of July 16, 2020, and there were no objections expressed to the proposed vacation of a portion of the Arch Street Alley "A" vacation; and

WHEREAS, the Hamilton Planning Commission considered the foregoing vacation request and did recommend that the above described a portion of Arch Street Alley "A", be vacated; and

WHEREAS, on July 16, 2020, the Planning Commission made the following motion and did recommend that City Council adopt an Ordinance of intent to vacate a portion of Arch Street Alley "A" located in the City of Hamilton, Butler County, Ohio, situated in the First Ward, South Side as drawn and depicted on the exhibit map, as indicated in Exhibit No.1; subject to the following conditions of approval outlined below and outlined in Exhibit No. 2:

- 1) The construction drawings for the proposed work, including site/engineering plans, shall be revised subject to any future requirements of the City Interdepartmental Review (IDR) Committee upon review; and
- 2) That the City Council waive its right to a hearing before the Board of Revisions and Assessments because the petition for vacation has been submitted by the City of Hamilton; and,
- 3) That City Council waive the requirement for an Appraisal of the property to be vacated because the petition for vacation has been submitted by the City of Hamilton; and,
- 4) The City Council waive the customary two-thirds payment of the appraised value of the vacated property because the petition for vacation has been submitted by the City of Hamilton; and

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hamilton, Ohio:

SECTION I: In consideration of the clauses set forth above, Council does hereby vacate the public's interest in that portion of Arch Street Alley "A" right-of-way, measuring 199.65 feet in length and 10 feet in width, containing approximately 1,999 square feet of right-of-way with a directional course east-west, between Parcel: #P6412113000031 (City Lot No. 190 X 10 ADJ 1683), and Parcel: #P6412113000032 (City Lot No. 1684 ENT), rear adjacent to 350 South D Street, (Parcel: #P6412113000033, City Lot No. OL 37 N 80 OF W 139.59), right-of-way situated in the First Ward, South Side of the City of Hamilton, Butler County, Ohio, as documented and designated on Exhibit No. 1 attached hereto, incorporated herein by reference and made a part hereof.

**Ordinance No.** \_\_\_\_\_ **(Cont'd)**

SECTION II: That said conditions of vacation include the conditions listed on Exhibit No. 2., Arch Street Alley "A" Vacation, Conditions of Approval attached hereto, incorporated herein by reference and made a part hereof.

SECTION III: That the Director of Finance shall cause notice of the passage of this Ordinance to be published as required by law unless all of the adjoining property owners have otherwise waived such notice.

SECTION IV: That said vacation shall be subject to the rights of any public utility pursuant to Section 723.041 of the Ohio Revised Code and to the rights of any lot owner pursuant to Section 723.08 of the Ohio Revised Code.

SECTION V: This Ordinance shall take effect and be in full force from and after the earliest period allowed by law.

PASSED: \_\_\_\_\_

\_\_\_\_\_  
Mayor

Effective Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_

City Clerk

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk of the City of Hamilton, Ohio, State of Ohio, hereby certify that the foregoing Ordinance No. \_\_\_\_\_ was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in the lobby of City Hall for a period of ten days. POSTED: \_\_\_\_\_.

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**

**EXHIBIT NO. 1**



Ordinance No. \_\_\_\_\_ (Cont'd)

**EXHIBIT NO. 2**

**Arch Street Alley Vacation – Recommended Conditions of Approval**

<b>BASIC INFORMATION</b>	
<b>Applicant/Property Owner</b>	City of Hamilton, applicant & property owner
<b>Architect/Engineer/Consultant</b>	N/A
<b>Size of Property</b>	Arch Street Alley - 199.65 Feet of alley
<b>Current Zoning</b>	N/A
<b>Requests</b>	Vacate a portion of Arch Street Alley "A"
<b>Size of Revision</b>	Arch Street Alley - 199.65 Feet of alley

**Conditions of Approval:**

- 1) The construction drawings for the proposed work, including site/engineering plans, shall be revised subject to any future requirements of the City Interdepartmental Review (IDR) Committee upon review.
- 2) That the City Council waive its right to a hearing before the Board of Revisions of Assessments because the petition for vacation has been submitted by the City of Hamilton.
- 3) That the City Council waive the requirement for an appraisal of the property to be vacated because the petition for vacation has been submitted by the City of Hamilton.
- 4) That the City Council waive the customary two-thirds payment of the appraised value of the vacated property because the petition for vacation has been submitted by the City of Hamilton.

## City Council Meeting Staff Report

**Report To:** The Honorable Mayor Patrick Moeller & Members of the City Council

**Report From:** Lauren Nelson, Business Development Specialist

**Agenda Item:** An ordinance approving the conveyance of certain real property acquired through the Land Bank to an adjoining property owner as a sidelot. (122 Progress Avenue).

<p><b>Approvals/Reviews</b> <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i></p>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	<p><b>Related Strategic Goal(s)</b></p> <input type="checkbox"/> <b>I</b> Realize new investments <input type="checkbox"/> <b>J</b> Increase gross wages <input checked="" type="checkbox"/> <b>P</b> Increase property values <input type="checkbox"/> <b>R</b> Generate recreational investments <input type="checkbox"/> <b>E</b> Engage citizens in activities <input type="checkbox"/> <b>O</b> General operations
<p><b>Ordinance or Resolution</b> <i>Ordinance</i></p>	<input checked="" type="checkbox"/> 1 <sup>st</sup> Reading Date: 8-12-2020 <input checked="" type="checkbox"/> 2 <sup>nd</sup> Reading Date: 8-26-2020 <input type="checkbox"/> Resolution Date: <input type="checkbox"/> Public Hearing Date:	
<p><b>Prior Action/Review</b> <i>Please note if this item was discussed on a prior Council or other agenda</i></p>	<p><b>City Council (or other):</b> Caucus Report 7-22-20 City Council Meeting</p>	
<p><b>Contract</b></p>	<input type="checkbox"/> Contract Required	<input type="checkbox"/> Additional Document(s) Attached
<p><b>Fiscal Impact</b></p>	<p>Budgeted: \$ Expenditure: \$ Source Funds:</p>	<p><i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i></p>

### Policy Issue

Does City Council wish to adopt legislation to convey the vacant lot at 122 Progress Avenue to Lena Shields who owns property contiguous to this lot?

### Policy Alternative(s)

Council may choose not to adopt such legislation to convey the vacant lot at 122 Progress Avenue to Lena Shields keep the property and maintain the lot.

### Staff Recommendation

Staff recommends that Council receive this report and adopt the legislation to convey the vacant lot at 122 Progress Avenue to Lena Shields because it would help lessen density in the urban core, encourage home ownership, and increase property values.



**Statutory/Policy Authority**

- Section 3.09, Legislative Procedure, of the Charter of the City of Hamilton.
- Section 175.10, Disposition of Property, Hamilton Codified Ordinance and Land Bank Policies and Procedures
- Land Reutilization Policies and Procedures, R2012-10-49

**Fiscal Impact Summary**

The City will reduce future financial responsibilities for maintenance of this property.

**Background Information**

The property at 122 Progress Avenue was acquired by the City of Hamilton from the Butler County Land Reutilization Corporation (Land Bank) in May 2013. The property is eligible for the side lot program and is in an urban renewal area. Lena Shields owns the property at 124 Progress Avenue and seeks to expand the yard by purchasing said property for One Hundred and 00/100 Dollars (\$100.00) through the City’s Side Lot Program.

Address	Parcel Identification
122 Progress Avenue, Hamilton, OH	P6411015000075

**Attached Information**

N/A

**Copies Provided to:**

N/A



**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE APPROVING THE CONVEYANCE OF CERTAIN REAL PROPERTY ACQUIRED THROUGH THE LAND BANK TO AN ADJOINING PROPERTY OWNER AS A SIDELOT.** (122 Progress Avenue).

WHEREAS, the City of Hamilton, Ohio has received a request from Lena Shields to acquire a property acquired through the Butler County Land Reutilization Corporation (Land Bank) and located in the City's Urban Renewal Area for the purposes as set forth in detail below; and

WHEREAS, City Administration has determined that this property, acquired through the Land Bank, is not needed for a public purpose, is located in an Urban Renewal Area and is contiguous to the residential property owned by Lena Shields; and

WHEREAS, no other eligible contiguous property owner applied to acquire this Property pursuant to the Land Reutilization Policies and Procedures set forth in Resolution No. R2012-10-49, adopted October 24, 2012 ("Land Reutilization Policies"); and

WHEREAS, pursuant to Section 175.10 of the City of Hamilton Codified Ordinances, City owned property in an urban renewal area which is not to be retained by the City in accordance with the Urban Renewal Plan may be disposed of with Council's approval, by sale under certain circumstances as are determined to be necessary and appropriate to carrying out the purpose of the Urban Renewal Plan; and

WHEREAS, City Administration has determined that acquisition costs should be waived and that the property should be sold to the applicant for One Hundred and 00/100 Dollars (\$100.00); and

WHEREAS, pursuant to the Land Reutilization Policies, it is also necessary to authorize the City Manager to execute a Land Bank Property Transfer Agreement with each purchaser to ensure that the purchaser maintain the property according to Land Bank standards and requirements; and

WHEREAS, Council determines that the conveyance of this property will meet the City goals of lessening density, encouraging home ownership, eliminating blight within the City, and increasing property values; and

WHEREAS, Council desires to authorize the conveyance of the ownership of this City-owned property to Lena Shields and to authorize and direct the City Manager to take all actions necessary to effect such conveyance;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hamilton, Ohio:

SECTION I: That this Council hereby declares its intent to sell the following City-owned property acquired through the Land Bank, which is more fully described below, and as seen in Exhibit No. 1, to the applicant for One Hundred and 00/100 Dollars (\$100.00), subject to the terms of a Land Bank Transfer Agreement, and waives any additional acquisition costs pursuant to the Land Reutilization Policies

<b>Purchaser</b>	<b>Address</b>	<b>Parcel Identification</b>
Lena Shields	122 Progress Avenue	P6411015000075

SECTION II: That this Council hereby finds that the conveyance of said property is in the public interest, comports with the City's Urban Renewal Plan and is made pursuant to the Land Reutilization Policies.

SECTION III: That the City Manager is authorized and directed to execute any and all documents necessary to effect this conveyance, including but not limited to a Land Bank Property Transfer Agreement, with the purchaser to ensure that the purchaser maintains the property according to Land Bank standards and requirements, subject to the conditions set forth herein.

SECTION IV: That this conveyance shall be subject to any easements currently of record and any easement determined necessary by the City for any utility purposes.

Ordinance No. \_\_\_\_\_ (cont'd)

SECTION V: This ordinance shall take effect and be in full force from and after the earliest period allowed by law.

PASSED: \_\_\_\_\_

\_\_\_\_\_  
Mayor

Effective Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
City Clerk

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk of the City of Hamilton, Ohio, State of Ohio, hereby certify that the foregoing Ordinance No. \_\_\_\_\_ was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in the lobby of City Hall for a period of ten days. POSTED: \_\_\_\_\_.

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**

**EXHIBIT NO. 1**



Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community, Esri Community Maps, 2014.



**Areas**  
122 Progress Avenue

# ArcGIS Web Map



Date: 7/8/2020

The information contained in this map is a public resource for general information and is provided for use only as a graphical representation. The City of Hamilton makes no warranty as to the content, accuracy, or completeness of the information contained herein and assumes no liability for any errors. Any reliance on the information in this document is the sole responsibility of the user.

1 inch = 94 feet

## City Council Meeting Staff Report

**Report To:** The Honorable Mayor Patrick Moeller & Members of the City Council

**Report From:** Lauren Nelson, Business Development Specialist

**Agenda Item:** An ordinance approving the conveyance of certain real property acquired through the Land Bank to an adjoining property owner as a sidelot. (P6421011000082 located adjacent to 242 Walnut Street).

<b>Approvals/Reviews</b> <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	<b>Related Strategic Goal(s)</b> <input type="checkbox"/> <b>I</b> Realize new investments <input type="checkbox"/> <b>J</b> Increase gross wages <input checked="" type="checkbox"/> <b>P</b> Increase property values <input type="checkbox"/> <b>R</b> Generate recreational investments <input type="checkbox"/> <b>E</b> Engage citizens in activities <input type="checkbox"/> <b>O</b> General operations
<b>Ordinance or Resolution</b> <i>Ordinance</i>	<input checked="" type="checkbox"/> 1 <sup>st</sup> Reading Date: 8-12-2020 <input checked="" type="checkbox"/> 2 <sup>nd</sup> Reading Date: 8-26-2020 <input type="checkbox"/> Resolution Date: <input type="checkbox"/> Public Hearing Date:	
<b>Prior Action/Review</b> <i>Please note if this item was discussed on a prior Council or other agenda</i>	<b>City Council (or other):</b> Caucus Report 7-22-20 City Council Meeting	
<b>Contract</b>	<input type="checkbox"/> Contract Required	<input type="checkbox"/> Additional Document(s) Attached
<b>Fiscal Impact</b>	Budgeted: \$	<i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i>
	Expenditure: \$	
	Source Funds:	

### Policy Issue

Does City Council wish to adopt legislation to convey the vacant lot adjacent to 242 Walnut Street (P6421011000082) to Janice McKinzie who owns property contiguous to this lot?

### Policy Alternative(s)

Council may choose not to adopt such legislation to convey the vacant lot adjacent to 242 Walnut Street (P6421011000082) to Janice McKinzie keep the property and maintain the lot.

### Staff Recommendation

Staff recommends that Council receive this report and adopt the legislation to convey the vacant lot adjacent to 242 Walnut Street (P6421011000082) to Janice McKinzie because it would help lessen density in the urban core, encourage home ownership, and increase property values.



**Statutory/Policy Authority**

- Section 3.09, Legislative Procedure, of the Charter of the City of Hamilton.
- Section 175.10, Disposition of Property, Hamilton Codified Ordinance and Land Bank Policies and Procedures
- Land Reutilization Policies and Procedures, R2012-10-49

**Fiscal Impact Summary**

The City will reduce future financial responsibilities for maintenance of this property.

**Background Information**

The property located adjacent to 242 Walnut Street was acquired by the City of Hamilton from the Butler County Land Reutilization Corporation (Land Bank) in July 2019. The property is eligible for the side lot program and is in an urban renewal area. Janice McKinzie owns the property at 242 Walnut Street and seeks to expand the yard by purchasing said property for One Hundred and 00/100 Dollars (\$100.00) through the City’s Side Lot Program.

Address	Parcel Identification
Walnut Street, Hamilton, OH	P6421011000082

**Attached Information**

N/A

**Copies Provided to:**

N/A



**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE APPROVING THE CONVEYANCE OF CERTAIN REAL PROPERTY ACQUIRED THROUGH THE LAND BANK TO AN ADJOINING PROPERTY OWNER AS A SIDELOT.** (P6421011000082 located adjacent to 242 Walnut Street).

WHEREAS, the City of Hamilton, Ohio has received a request from Janice McKinzie to acquire a property acquired through the Butler County Land Reutilization Corporation (Land Bank) and located in the City's Urban Renewal Area for the purposes as set forth in detail below; and

WHEREAS, City Administration has determined that this property, acquired through the Land Bank, is not needed for a public purpose, is located in an Urban Renewal Area and is contiguous to the residential property owned by Janice McKinzie; and

WHEREAS, no other eligible contiguous property owner applied to acquire this Property pursuant to the Land Reutilization Policies and Procedures set forth in Resolution No. R2012-10-49, adopted October 24, 2012 ("Land Reutilization Policies"); and

WHEREAS, pursuant to Section 175.10 of the City of Hamilton Codified Ordinances, City owned property in an urban renewal area which is not to be retained by the City in accordance with the Urban Renewal Plan may be disposed of with Council's approval, by sale under certain circumstances as are determined to be necessary and appropriate to carrying out the purpose of the Urban Renewal Plan; and

WHEREAS, City Administration has determined that acquisition costs should be waived and that the property should be sold to the applicant for One Hundred and 00/100 Dollars (\$100.00); and

WHEREAS, pursuant to the Land Reutilization Policies, it is also necessary to authorize the City Manager to execute a Land Bank Property Transfer Agreement with each purchaser to ensure that the purchaser maintain the property according to Land Bank standards and requirements; and

WHEREAS, Council determines that the conveyance of this property will meet the City goals of lessening density, encouraging home ownership, eliminating blight within the City, and increasing property values; and

WHEREAS, Council desires to authorize the conveyance of the ownership of this City-owned property to Janice McKinzie and to authorize and direct the City Manager to take all actions necessary to effect such conveyance;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hamilton, Ohio:

SECTION I: That this Council hereby declares its intent to sell the following City-owned property acquired through the Land Bank, which is more fully described below, and as seen in Exhibit No. 1, to the applicant for One Hundred and 00/100 Dollars (\$100.00), subject to the terms of a Land Bank Transfer Agreement, and waives any additional acquisition costs pursuant to the Land Reutilization Policies

<b>Purchaser</b>	<b>Address</b>	<b>Parcel Identification</b>
Janice McKinzie	Walnut Street	P6421011000082

SECTION II: That this Council hereby finds that the conveyance of said property is in the public interest, comports with the City's Urban Renewal Plan and is made pursuant to the Land Reutilization Policies.

SECTION III: That the City Manager is authorized and directed to execute any and all documents necessary to effect this conveyance, including but not limited to a Land Bank Property Transfer Agreement, with the purchaser to ensure that the purchaser maintains the property according to Land Bank standards and requirements, subject to the conditions set forth herein.

SECTION IV: That this conveyance shall be subject to any easements currently of record and any easement determined necessary by the City for any utility purposes.

Ordinance No. \_\_\_\_\_ (cont'd)

SECTION V: This ordinance shall take effect and be in full force from and after the earliest period allowed by law.

PASSED: \_\_\_\_\_

\_\_\_\_\_  
Mayor

Effective Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_

City Clerk

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk of the City of Hamilton, Ohio, State of Ohio, hereby certify that the foregoing Ordinance No. \_\_\_\_\_ was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in the lobby of City Hall for a period of ten days. POSTED: \_\_\_\_\_.

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**

**EXHIBIT NO. 1**



## City Council Meeting Staff Report

**Report To:** The Honorable Mayor Patrick Moeller & Members of the City Council

**Report From:** Lauren Nelson, Business Development Specialist

**Agenda Item:** An ordinance approving the conveyance of certain real property acquired through the Land Bank to an adjoining property owner as a sidelot. (246 Walnut Street).

<p><b>Approvals/Reviews</b> <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i></p>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	<p><b>Related Strategic Goal(s)</b></p> <input type="checkbox"/> <b>I</b> Realize new investments <input type="checkbox"/> <b>J</b> Increase gross wages <input checked="" type="checkbox"/> <b>P</b> Increase property values <input type="checkbox"/> <b>R</b> Generate recreational investments <input type="checkbox"/> <b>E</b> Engage citizens in activities <input type="checkbox"/> <b>O</b> General operations
<p><b>Ordinance or Resolution</b> <i>Ordinance</i></p>	<input checked="" type="checkbox"/> 1 <sup>st</sup> Reading Date: 8-12-2020 <input checked="" type="checkbox"/> 2 <sup>nd</sup> Reading Date: 8-26-2020 <input type="checkbox"/> Resolution Date: <input type="checkbox"/> Public Hearing Date:	
<p><b>Prior Action/Review</b> <i>Please note if this item was discussed on a prior Council or other agenda</i></p>	<p><b>City Council (or other):</b> Caucus Report 7-22-20 City Council Meeting</p>	
<p><b>Contract</b></p>	<input type="checkbox"/> Contract Required	<input type="checkbox"/> Additional Document(s) Attached
<p><b>Fiscal Impact</b></p>	Budgeted: \$ Expenditure: \$ Source Funds:	<p><i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i></p>

**Policy Issue**

Does City Council wish to adopt legislation to convey the vacant lot at 246 Walnut Street to Eulalio Quezada who owns property contiguous to this lot?

**Policy Alternative(s)**

Council may choose not to adopt such legislation to convey the vacant lot at 246 Walnut Street to Eulalio Quezada keep the property and maintain the lot.

**Staff Recommendation**

Staff recommends that Council receive this report and adopt the legislation to convey the vacant lot at 246 Walnut Street to Eulalio Quezada because it would help lessen density in the urban core, encourage home ownership, and increase property values.



**Statutory/Policy Authority**

- Section 3.09, Legislative Procedure, of the Charter of the City of Hamilton.
- Section 175.10, Disposition of Property, Hamilton Codified Ordinance and Land Bank Policies and Procedures
- Land Reutilization Policies and Procedures, R2012-10-49

**Fiscal Impact Summary**

The City will reduce future financial responsibilities for maintenance of this property.

**Background Information**

The property at 246 Walnut Street was acquired by the City of Hamilton from the Butler County Land Reutilization Corporation (Land Bank) in July 2019. The property is eligible for the side lot program and is in an urban renewal area. Eulalio Quezada owns the property at 250 Walnut Street and seeks to expand the yard by purchasing said property for One Hundred and 00/100 Dollars (\$100.00) through the City’s Side Lot Program.

Address	Parcel Identification
246 Walnut Street, Hamilton, OH	P6421011000081

**Attached Information**

N/A

**Copies Provided to:**

N/A



**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE APPROVING THE CONVEYANCE OF CERTAIN REAL PROPERTY ACQUIRED THROUGH THE LAND BANK TO AN ADJOINING PROPERTY OWNER AS A SIDELOT. (246 Walnut Street).**

WHEREAS, the City of Hamilton, Ohio has received a request from Eulalio Quezada to acquire a property acquired through the Butler County Land Reutilization Corporation (Land Bank) and located in the City's Urban Renewal Area for the purposes as set forth in detail below; and

WHEREAS, City Administration has determined that this property, acquired through the Land Bank, is not needed for a public purpose, is located in an Urban Renewal Area and is contiguous to the residential property owned by Eulalio Quezada; and

WHEREAS, no other eligible contiguous property owner applied to acquire this Property pursuant to the Land Reutilization Policies and Procedures set forth in Resolution No. R2012-10-49, adopted October 24, 2012 ("Land Reutilization Policies"); and

WHEREAS, pursuant to Section 175.10 of the City of Hamilton Codified Ordinances, City owned property in an urban renewal area which is not to be retained by the City in accordance with the Urban Renewal Plan may be disposed of with Council's approval, by sale under certain circumstances as are determined to be necessary and appropriate to carrying out the purpose of the Urban Renewal Plan; and

WHEREAS, City Administration has determined that acquisition costs should be waived and that the property should be sold to the applicant for One Hundred and 00/100 Dollars (\$100.00); and

WHEREAS, pursuant to the Land Reutilization Policies, it is also necessary to authorize the City Manager to execute a Land Bank Property Transfer Agreement with each purchaser to ensure that the purchaser maintain the property according to Land Bank standards and requirements; and

WHEREAS, Council determines that the conveyance of this property will meet the City goals of lessening density, encouraging home ownership, eliminating blight within the City, and increasing property values; and

WHEREAS, Council desires to authorize the conveyance of the ownership of this City-owned property to Eulalio Quezada and to authorize and direct the City Manager to take all actions necessary to effect such conveyance;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hamilton, Ohio:

SECTION I: That this Council hereby declares its intent to sell the following City-owned property acquired through the Land Bank, which is more fully described below, and as seen in Exhibit No. 1, to the applicant for One Hundred and 00/100 Dollars (\$100.00), subject to the terms of a Land Bank Transfer Agreement, and waives any additional acquisition costs pursuant to the Land Reutilization Policies

<b>Purchaser</b>	<b>Address</b>	<b>Parcel Identification</b>
Eulalio Quezada	246 Walnut Street	P6421011000081

SECTION II: That this Council hereby finds that the conveyance of said property is in the public interest, comports with the City's Urban Renewal Plan and is made pursuant to the Land Reutilization Policies.

SECTION III: That the City Manager is authorized and directed to execute any and all documents necessary to effect this conveyance, including but not limited to a Land Bank Property Transfer Agreement, with the purchaser to ensure that the purchaser maintains the property according to Land Bank standards and requirements, subject to the conditions set forth herein.

SECTION IV: That this conveyance shall be subject to any easements currently of record and any easement determined necessary by the City for any utility purposes.

Ordinance No. \_\_\_\_\_ (cont'd)

SECTION V: This ordinance shall take effect and be in full force from and after the earliest period allowed by law.

PASSED: \_\_\_\_\_

\_\_\_\_\_  
Mayor

Effective Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
City Clerk

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk of the City of Hamilton, Ohio, State of Ohio, hereby certify that the foregoing Ordinance No. \_\_\_\_\_ was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in the lobby of City Hall for a period of ten days. POSTED: \_\_\_\_\_.

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**

**EXHIBIT NO. 1**



## City Council Meeting Staff Report

**Report To:** The Honorable Mayor Patrick Moeller & Members of the City Council

**Report From:** Lauren Nelson, Business Development Specialist

**Agenda Item:** An ordinance approving the conveyance of certain real property acquired through the Land Bank to an adjoining property owner as a sidelot. (420 Chestnut Street).

<p><b>Approvals/Reviews</b> <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i></p>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	<p><b>Related Strategic Goal(s)</b></p> <input type="checkbox"/> <b>I</b> Realize new investments <input type="checkbox"/> <b>J</b> Increase gross wages <input checked="" type="checkbox"/> <b>P</b> Increase property values <input type="checkbox"/> <b>R</b> Generate recreational investments <input type="checkbox"/> <b>E</b> Engage citizens in activities <input type="checkbox"/> <b>O</b> General operations
<p><b>Ordinance or Resolution</b> <i>Ordinance</i></p>	<input checked="" type="checkbox"/> 1 <sup>st</sup> Reading Date: 8-12-2020 <input checked="" type="checkbox"/> 2 <sup>nd</sup> Reading Date: 8-26-2020 <input type="checkbox"/> Resolution Date: <input type="checkbox"/> Public Hearing Date:	
<p><b>Prior Action/Review</b> <i>Please note if this item was discussed on a prior Council or other agenda</i></p>	<p><b>City Council (or other):</b> Caucus Report 7-22-20 City Council Meeting</p>	
<p><b>Contract</b></p>	<input type="checkbox"/> Contract Required	<input type="checkbox"/> Additional Document(s) Attached
<p><b>Fiscal Impact</b></p>	<p>Budgeted: \$</p>	<p><i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i></p>
	<p>Expenditure: \$</p>	
	<p>Source Funds:</p>	

### Policy Issue

Does City Council wish to adopt legislation to convey the vacant lot at 420 Chestnut Street to Cesar Adrian Sanchez Rodriguez and Juanita Gaudalupez Navarro Decena who own property contiguous to this lot?

### Policy Alternative(s)

Council may choose not to adopt such legislation to convey the vacant lot at 420 Chestnut Street to Cesar Adrian Sanchez Rodriguez and Juanita Gaudalupez Navarro Decena keep the property and maintain the lot.

### Staff Recommendation

Staff recommends that Council receive this report and adopt the legislation to convey the vacant lot at 420 Chestnut Street to Cesar Adrian Sanchez Rodriguez and Juanita Gaudalupez Navarro Decena because it would help lessen density in the urban core, encourage home ownership, and increase property values.



**Statutory/Policy Authority**

- Section 3.09, Legislative Procedure, of the Charter of the City of Hamilton.
- Section 175.10, Disposition of Property, Hamilton Codified Ordinance and Land Bank Policies and Procedures
- Land Reutilization Policies and Procedures, R2012-10-49

**Fiscal Impact Summary**

The City will reduce future financial responsibilities for maintenance of this property.

**Background Information**

The property at 420 Chestnut Street was acquired by the City of Hamilton from the Butler County Land Reutilization Corporation (Land Bank) in November 2012. The property is eligible for the side lot program and is in an urban renewal area. Cesar Adrian Sanchez Rodriguez and Juanita Gaudalupe Navarro Decena own the property at 422 Chestnut Street and seek to expand the yard by purchasing said property for One Hundred and 00/100 Dollars (\$100.00) through the City’s Side Lot Program.

Address	Parcel Identification
420 Chestnut Street, Hamilton, OH	P6441037000076

**Attached Information**

N/A

**Copies Provided to:**

N/A



**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE APPROVING THE CONVEYANCE OF CERTAIN REAL PROPERTY ACQUIRED THROUGH THE LAND BANK TO AN ADJOINING PROPERTY OWNER AS A SIDELOT.** (420 Chestnut Street).

WHEREAS, the City of Hamilton, Ohio has received a request from Cesar Adrian Sanchez Rodriguez and Juanita Gaudalupez Navarro Decena to acquire a property acquired through the Butler County Land Reutilization Corporation (Land Bank) and located in the City's Urban Renewal Area for the purposes as set forth in detail below; and

WHEREAS, City Administration has determined that this property, acquired through the Land Bank, is not needed for a public purpose, is located in an Urban Renewal Area and is contiguous to the residential property owned by Cesar Adrian Sanchez Rodriguez and Juanita Gaudalupez Navarro Decena; and

WHEREAS, no other eligible contiguous property owner applied to acquire this Property pursuant to the Land Reutilization Policies and Procedures set forth in Resolution No. R2012-10-49, adopted October 24, 2012 ("Land Reutilization Policies"); and

WHEREAS, pursuant to Section 175.10 of the City of Hamilton Codified Ordinances, City owned property in an urban renewal area which is not to be retained by the City in accordance with the Urban Renewal Plan may be disposed of with Council's approval, by sale under certain circumstances as are determined to be necessary and appropriate to carrying out the purpose of the Urban Renewal Plan; and

WHEREAS, City Administration has determined that acquisition costs should be waived and that the property should be sold to the applicant for One Hundred and 00/100 Dollars (\$100.00); and

WHEREAS, pursuant to the Land Reutilization Policies, it is also necessary to authorize the City Manager to execute a Land Bank Property Transfer Agreement with each purchaser to ensure that the purchaser maintain the property according to Land Bank standards and requirements; and

WHEREAS, Council determines that the conveyance of this property will meet the City goals of lessening density, encouraging home ownership, eliminating blight within the City, and increasing property values; and

WHEREAS, Council desires to authorize the conveyance of the ownership of this City-owned property to Cesar Adrian Sanchez Rodriguez and Juanita Gaudalupez Navarro Decena and to authorize and direct the City Manager to take all actions necessary to effect such conveyance;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hamilton, Ohio:

SECTION I: That this Council hereby declares its intent to sell the following City-owned property acquired through the Land Bank, which is more fully described below, and as seen in Exhibit No. 1, to the applicant for One Hundred and 00/100 Dollars (\$100.00), subject to the terms of a Land Bank Transfer Agreement, and waives any additional acquisition costs pursuant to the Land Reutilization Policies

<b>Purchaser</b>	<b>Address</b>	<b>Parcel Identification</b>
Cesar Adrian Sanchez Rodriguez and Juanita Gaudalupez Navarro Decena	420 Chestnut Street	P6441037000076

SECTION II: That this Council hereby finds that the conveyance of said property is in the public interest, comports with the City's Urban Renewal Plan and is made pursuant to the Land Reutilization Policies.

SECTION III: That the City Manager is authorized and directed to execute any and all documents necessary to effect this conveyance, including but not limited to a Land Bank Property Transfer Agreement, with the purchaser to ensure that the purchaser maintains the property according to Land Bank standards and requirements, subject to the conditions set forth herein.

Ordinance No. \_\_\_\_\_ (cont'd)

SECTION IV: That this conveyance shall be subject to any easements currently of record and any easement determined necessary by the City for any utility purposes.

SECTION V: This ordinance shall take effect and be in full force from and after the earliest period allowed by law.

PASSED: \_\_\_\_\_

\_\_\_\_\_

Mayor

Effective Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_

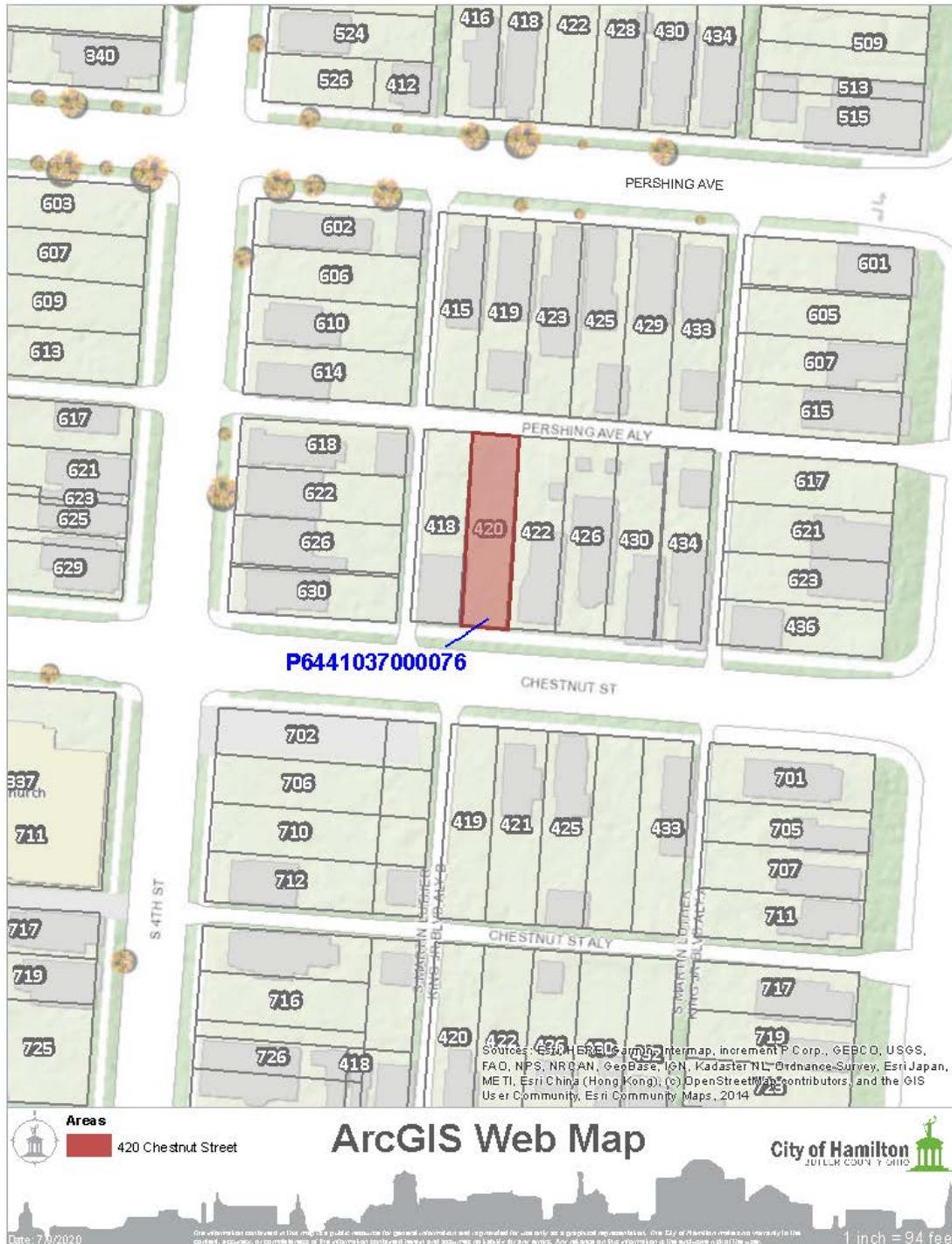
City Clerk

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk of the City of Hamilton, Ohio, State of Ohio, hereby certify that the foregoing Ordinance No. \_\_\_\_\_ was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in the lobby of City Hall for a period of ten days. POSTED: \_\_\_\_\_.

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**

**EXHIBIT NO. 1**



## City Council Meeting Staff Report

**Report To:** The Honorable Mayor Patrick Moeller & Members of the City Council

**Report From:** Lauren Nelson, Business Development Specialist

**Agenda Item:** An ordinance approving the conveyance of certain real property located within the City of Hamilton, Ohio's Urban Renewal Area to an adjoining property owner as a sidelot. (463 S. Fourth Street).

<p><b>Approvals/Reviews</b> <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i></p>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	<p><b>Related Strategic Goal(s)</b></p> <input type="checkbox"/> <b>I</b> Realize new investments <input type="checkbox"/> <b>J</b> Increase gross wages <input checked="" type="checkbox"/> <b>P</b> Increase property values <input type="checkbox"/> <b>R</b> Generate recreational investments <input type="checkbox"/> <b>E</b> Engage citizens in activities <input type="checkbox"/> <b>O</b> General operations
<p><b>Ordinance or Resolution</b> <i>Ordinance</i></p>	<input checked="" type="checkbox"/> 1 <sup>st</sup> Reading Date: 8-12-2020 <input checked="" type="checkbox"/> 2 <sup>nd</sup> Reading Date: 8-26-2020 <input type="checkbox"/> Resolution Date: <input type="checkbox"/> Public Hearing Date:	
<p><b>Prior Action/Review</b> <i>Please note if this item was discussed on a prior Council or other agenda</i></p>	<p><b>City Council (or other):</b> Caucus Report 7-22-20 City Council Meeting</p>	
<p><b>Contract</b></p>	<input type="checkbox"/> Contract Required	<input type="checkbox"/> Additional Document(s) Attached
<p><b>Fiscal Impact</b></p>	Budgeted: \$ Expenditure: \$ Source Funds:	<p><i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i></p>

### Policy Issue

Does City Council wish to adopt legislation to convey the vacant lot at 463 S. Fourth Street to John Hurd Jr. who owns property contiguous to this lot?

### Policy Alternative(s)

Council may choose not to adopt such legislation to convey the vacant lot at 463 S. Fourth Street to John Hurd Jr. keep the property and maintain the lot.

### Staff Recommendation

Staff recommends that Council receive this report and adopt the legislation to convey the vacant lot at 463 S. Fourth Street to John Hurd Jr. because it would help lessen density in the urban core, encourage home ownership, and increase property values.



**Statutory/Policy Authority**

- Section 3.09, Legislative Procedure, of the Charter of the City of Hamilton.
- Section 175.10, Disposition of Property, Hamilton Codified Ordinance
- Land Reutilization Policies and Procedures, R2012-10-49

**Fiscal Impact Summary**

The City will reduce future financial responsibilities for maintenance of this property.

**Background Information**

The property at 463 S. Fourth Street was acquired by the City of Hamilton from Donald L. Dickinson in March 2010. The property is eligible for the side lot program and is in an urban renewal area. John Hurd Jr. owns the property at 455 S. Fourth Street and seeks to expand the yard by purchasing said property for One Hundred and 00/100 Dollars (\$100.00) through the City's Side Lot Program.

Address	Parcel Identification
463 S. Fourth Street, Hamilton, OH	P6441032000017

**Attached Information**

N/A

**Copies Provided to:**

N/A



**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE APPROVING THE CONVEYANCE OF CERTAIN REAL PROPERTY LOCATED WITHIN THE CITY OF HAMILTON, OHIO'S URBAN RENEWAL AREA TO AN ADJOINING PROPERTY OWNER AS A SIDELOT. (463 S. Fourth Street).**

WHEREAS, the City of Hamilton, Ohio has received a request from John Hurd Jr. to acquire a property acquired from Donald L. Dickinson and located in the City's Urban Renewal Area for the purposes as set forth in detail below; and

WHEREAS, City Administration has determined that this property is not needed for a public purpose, is located in an Urban Renewal Area and is contiguous to the residential property owned by John Hurd Jr.; and

WHEREAS, no other eligible contiguous property owner applied to acquire this Property pursuant to the Land Reutilization Policies and Procedures set forth in Resolution No. R2012-10-49, adopted October 24, 2012 ("Land Reutilization Policies"); and

WHEREAS, pursuant to Section 175.10 of the City of Hamilton Codified Ordinances, City owned property in an urban renewal area which is not to be retained by the City in accordance with the Urban Renewal Plan may be disposed of with Council's approval, by sale under certain circumstances as are determined to be necessary and appropriate to carrying out the purpose of the Urban Renewal Plan; and

WHEREAS, City Administration has determined that acquisition costs should be waived and that the property should be sold to the applicant for One Hundred and 00/100 Dollars (\$100.00); and

WHEREAS, pursuant to the Land Reutilization Policies, it is also necessary to authorize the City Manager to execute a Transfer Agreement with each purchaser to ensure that the purchaser maintain the property according to certain standards and requirements; and

WHEREAS, Council determines that the conveyance of this property will meet the City goals of lessening density, encouraging home ownership, eliminating blight within the City, and increasing property values; and

WHEREAS, Council desires to authorize the conveyance of the ownership of this City-owned property to John Hurd Jr. and to authorize and direct the City Manager to take all actions necessary to effect such conveyance;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hamilton, Ohio:

SECTION I: That this Council hereby declares its intent to sell the following City-owned property acquired from Donald L. Dickinson, which is more fully described below, and as seen in Exhibit No. 1, to the applicant for One Hundred and 00/100 Dollars (\$100.00), subject to the terms of a Transfer Agreement, and waives any additional acquisition costs pursuant to the Land Reutilization Policies

<b>Purchaser</b>	<b>Address</b>	<b>Parcel Identification</b>
John Hurd Jr.	463 S. Fourth Street	P6441032000017

SECTION II: That this Council hereby finds that the conveyance of said property is in the public interest, comports with the City's Urban Renewal Plan and is made pursuant to the Land Reutilization Policies.

SECTION III: That the City Manager is authorized and directed to execute any and all documents necessary to effect this conveyance, including but not limited to a Transfer Agreement, with the purchaser to ensure that the purchaser maintains the property according to certain standards and requirements, subject to the conditions set forth herein.

SECTION IV: That this conveyance shall be subject to any easements currently of record and any easement determined necessary by the City for any utility purposes.

Ordinance No. \_\_\_\_\_ (cont'd)

SECTION V: This ordinance shall take effect and be in full force from and after the earliest period allowed by law.

PASSED: \_\_\_\_\_

\_\_\_\_\_  
Mayor

Effective Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_

City Clerk

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk of the City of Hamilton, Ohio, State of Ohio, hereby certify that the foregoing Ordinance No. \_\_\_\_\_ was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in the lobby of City Hall for a period of ten days. POSTED: \_\_\_\_\_.

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**

**EXHIBIT NO. 1**



## City Council Meeting Staff Report

**Report To:** The Honorable Mayor Patrick Moeller & Members of the City Council

**Report From:** Lauren Nelson, Business Development Specialist

**Agenda Item:** An ordinance approving the conveyance of certain real property acquired through the Land Bank to an adjoining property owner as a sidelot. (600 S. McKinley Avenue).

<p><b>Approvals/Reviews</b> <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i></p>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	<p><b>Related Strategic Goal(s)</b></p> <input type="checkbox"/> <b>I</b> Realize new investments <input type="checkbox"/> <b>J</b> Increase gross wages <input checked="" type="checkbox"/> <b>P</b> Increase property values <input type="checkbox"/> <b>R</b> Generate recreational investments <input type="checkbox"/> <b>E</b> Engage citizens in activities <input type="checkbox"/> <b>O</b> General operations
<p><b>Ordinance or Resolution</b> <i>Ordinance</i></p>	<input checked="" type="checkbox"/> 1 <sup>st</sup> Reading Date: 8-12-2020 <input checked="" type="checkbox"/> 2 <sup>nd</sup> Reading Date: 8-26-2020 <input type="checkbox"/> Resolution Date: <input type="checkbox"/> Public Hearing Date:	
<p><b>Prior Action/Review</b> <i>Please note if this item was discussed on a prior Council or other agenda</i></p>	<p><b>City Council (or other):</b> Caucus Report 7-22-20 City Council Meeting</p>	
<p><b>Contract</b></p>	<input type="checkbox"/> Contract Required	<input type="checkbox"/> Additional Document(s) Attached
<p><b>Fiscal Impact</b></p>	Budgeted: \$ Expenditure: \$ Source Funds:	<p><i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i></p>

**Policy Issue**

Does City Council wish to adopt legislation to convey the vacant lot at 600 S. McKinley Avenue to Cathy Hilton who owns property contiguous to this lot?

**Policy Alternative(s)**

Council may choose not to adopt such legislation to convey the vacant lot at 600 S. McKinley Avenue to Cathy Hilton keep the property and maintain the lot.

**Staff Recommendation**

Staff recommends that Council receive this report and adopt the legislation to convey the vacant lot at 600 S. McKinley Avenue to Cathy Hilton because it would help lessen density in the urban core, encourage home ownership, and increase property values.



**Statutory/Policy Authority**

- Section 3.09, Legislative Procedure, of the Charter of the City of Hamilton.
- Section 175.10, Disposition of Property, Hamilton Codified Ordinance and Land Bank Policies and Procedures
- Land Reutilization Policies and Procedures, R2012-10-49

**Fiscal Impact Summary**

The City will reduce future financial responsibilities for maintenance of this property.

**Background Information**

The property at 600 S. McKinley Avenue was acquired by the City of Hamilton from the Butler County Land Reutilization Corporation (Land Bank) in August 2017. The property is eligible for the side lot program and is in an urban renewal area. Cathy Hilton owns the property at 602 S. McKinley Avenue and seeks to expand the yard by purchasing said property for One Hundred and 00/100 Dollars (\$100.00) through the City's Side Lot Program.

Address	Parcel Identification
600 S. McKinley Avenue, Hamilton, OH	P6412009000102

**Attached Information**

N/A

**Copies Provided to:**

N/A



**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE APPROVING THE CONVEYANCE OF CERTAIN REAL PROPERTY ACQUIRED THROUGH THE LAND BANK TO AN ADJOINING PROPERTY OWNER AS A SIDELOT.** (600 S. McKinley Avenue).

WHEREAS, the City of Hamilton, Ohio has received a request from Cathy Hilton to acquire a property acquired through the Butler County Land Reutilization Corporation (Land Bank) and located in the City's Urban Renewal Area for the purposes as set forth in detail below; and

WHEREAS, City Administration has determined that this property, acquired through the Land Bank, is not needed for a public purpose, is located in an Urban Renewal Area and is contiguous to the residential property owned by Cathy Hilton; and

WHEREAS, no other eligible contiguous property owner applied to acquire this Property pursuant to the Land Reutilization Policies and Procedures set forth in Resolution No. R2012-10-49, adopted October 24, 2012 ("Land Reutilization Policies"); and

WHEREAS, pursuant to Section 175.10 of the City of Hamilton Codified Ordinances, City owned property in an urban renewal area which is not to be retained by the City in accordance with the Urban Renewal Plan may be disposed of with Council's approval, by sale under certain circumstances as are determined to be necessary and appropriate to carrying out the purpose of the Urban Renewal Plan; and

WHEREAS, City Administration has determined that acquisition costs should be waived and that the property should be sold to the applicant for One Hundred and 00/100 Dollars (\$100.00); and

WHEREAS, pursuant to the Land Reutilization Policies, it is also necessary to authorize the City Manager to execute a Land Bank Property Transfer Agreement with each purchaser to ensure that the purchaser maintain the property according to Land Bank standards and requirements; and

WHEREAS, Council determines that the conveyance of this property will meet the City goals of lessening density, encouraging home ownership, eliminating blight within the City, and increasing property values; and

WHEREAS, Council desires to authorize the conveyance of the ownership of this City-owned property to Cathy Hilton and to authorize and direct the City Manager to take all actions necessary to effect such conveyance;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hamilton, Ohio:

SECTION I: That this Council hereby declares its intent to sell the following City-owned property acquired through the Land Bank, which is more fully described below, and as seen in Exhibit No. 1, to the applicant for One Hundred and 00/100 Dollars (\$100.00), subject to the terms of a Land Bank Transfer Agreement, and waives any additional acquisition costs pursuant to the Land Reutilization Policies

<b>Purchaser</b>	<b>Address</b>	<b>Parcel Identification</b>
Cathy Hilton	600 S. McKinley Avenue	P6412009000102

SECTION II: That this Council hereby finds that the conveyance of said property is in the public interest, comports with the City's Urban Renewal Plan and is made pursuant to the Land Reutilization Policies.

SECTION III: That the City Manager is authorized and directed to execute any and all documents necessary to effect this conveyance, including but not limited to a Land Bank Property Transfer Agreement, with the purchaser to ensure that the purchaser maintains the property according to Land Bank standards and requirements, subject to the conditions set forth herein.

SECTION IV: That this conveyance shall be subject to any easements currently of record and any easement determined necessary by the City for any utility purposes.

Ordinance No. \_\_\_\_\_ (cont'd)

SECTION V: This ordinance shall take effect and be in full force from and after the earliest period allowed by law.

PASSED: \_\_\_\_\_

\_\_\_\_\_  
Mayor

Effective Date: \_\_\_\_\_

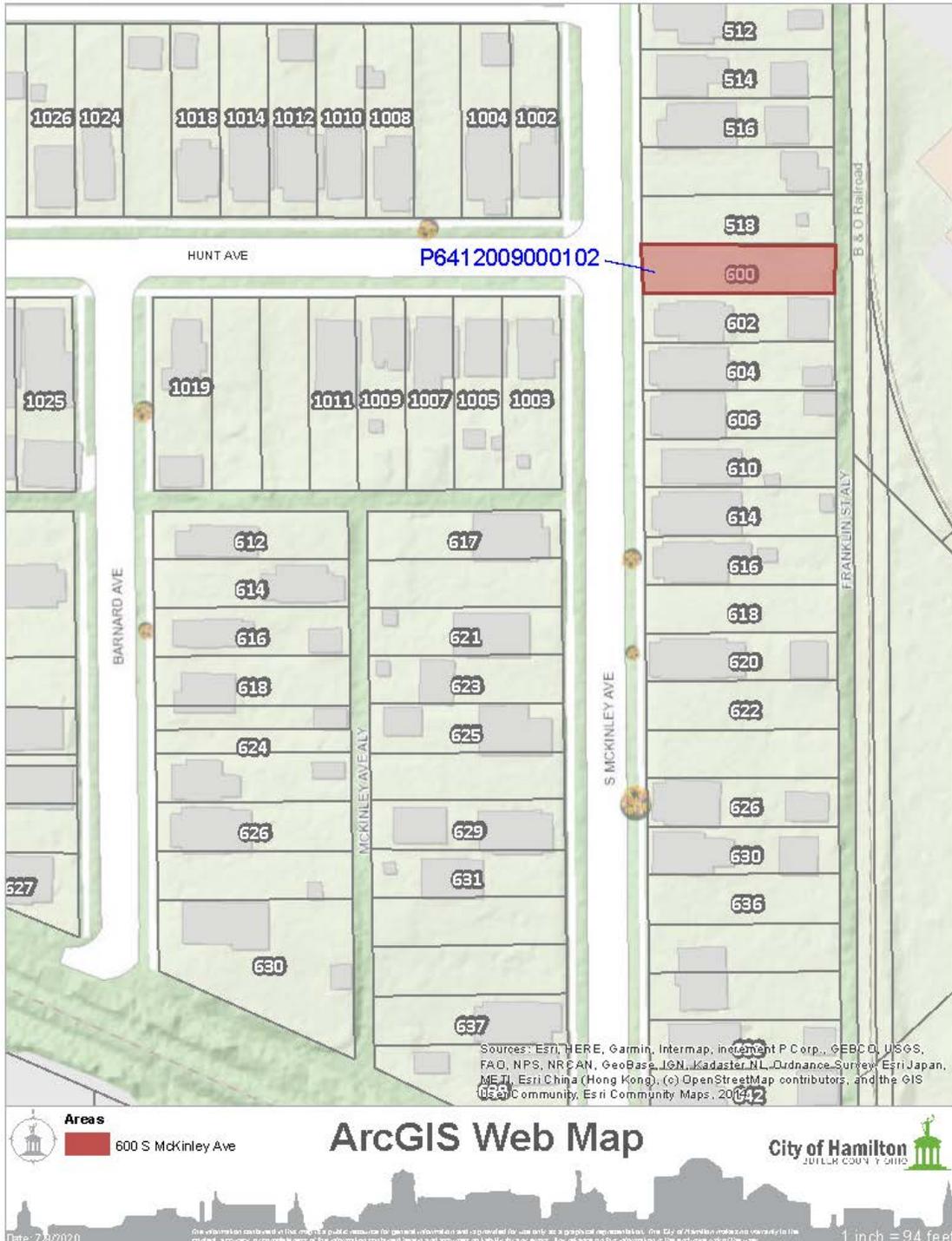
ATTEST: \_\_\_\_\_  
City Clerk

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk of the City of Hamilton, Ohio, State of Ohio, hereby certify that the foregoing Ordinance No. \_\_\_\_\_ was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in the lobby of City Hall for a period of ten days. POSTED: \_\_\_\_\_.

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**

**EXHIBIT NO. 1**



**City Council Meeting Staff Report**

**Report To:** The Honorable Mayor Patrick Moeller & Members of the City Council

**Report From:** Larry Bagford – Planning & Zoning Specialist

**Agenda Item:** Request to Amend the City of Hamilton Ordinances: Agenda Item #34 An ordinance amending and supplementing Part Three – Traffic Code, deleting Section 301.20 Motor Vehicle, adding Section 301.18.22 Mobile Home, and amending Section 301.51 Vehicle of Chapter 301 Definitions, of the Codified Ordinances of the City of Hamilton, Ohio, Agenda Item # 35 An ordinance amending and supplementing Part Three – Traffic Code, Chapter 351 Parking Generally, Section 351.03 and Subsection (A) Prohibited Standing or Parking Places, Section 351.03.1 Prohibited Standing and Parking of Certain Trucks and Buses and all Semi Trailers and Semi Tractors in a Residence District; Exceptions, Section 351.17 No Parking of Vehicles in Yards, and Section 351.99(a)(3) Penalty, of the Codified Ordinances of the City of Hamilton, Agenda Item #36, An ordinance amending and supplementing Part Three – Traffic Code, Chapter 355 Junk and Abandoned Vehicles, Sections 355.01 – 355.05, of the Codified Ordinances of the City of Hamilton, Ohio, and Agenda Item # 37 An ordinance amending and supplementing Part Seventeen – Health Code, Chapter 1735 – Littering, Section 1735 Littering, Sections 1735.18 Maintaining Private Property Free of Litter, Section 1735.20 Effect of Noncompliance; City May Remove Violation, and Section 1735.22 Junk Motor Vehicles on Private Property with Permission of Owner; Notice of Removal and Impounding, of the Codified Ordinances of the City of Hamilton, Ohio.

<p><b>Approvals/Reviews</b> <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i></p>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	<p><b>Related Strategic Goal(s)</b></p> <input type="checkbox"/> <b>I</b> Realize new investments <input type="checkbox"/> <b>J</b> Increase gross wages <input type="checkbox"/> <b>P</b> Increase property values <input type="checkbox"/> <b>R</b> Generate recreational investments <input type="checkbox"/> <b>E</b> Engage citizens in activities <input checked="" type="checkbox"/> <b>O</b> General operations
<p><b>Ordinance or Resolution Ordinance</b></p>	<input checked="" type="checkbox"/> 1 <sup>st</sup> Reading Date: 8-12-2020 <input checked="" type="checkbox"/> 2 <sup>nd</sup> Reading Date: 8-26-2020 <input type="checkbox"/> Resolution Date: <input checked="" type="checkbox"/> Public Hearing Date: 8-12-2020	
<p><b>Prior Action/Review</b> <i>Please note if this item was discussed on a prior Council or other agenda</i></p>	<p><b>City Council (or other):</b> 7-22-2020          Caucus Report City Council Meeting          Ordinance Review Committee Meeting 6-17-2020</p>	
<p><b>Contract</b></p>	<input type="checkbox"/> Contract Required	<input checked="" type="checkbox"/> Additional Document(s) Attached
<p><b>Fiscal Impact</b></p>	<p>Budgeted:          Expenditure:          Source Funds:</p>	<p><i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i></p>

## **Policy Issue**

Does City Council wish to amend the City of Hamilton Ordinances: Chapter 301, Definitions, Chapter 351, Parking Generally, and Chapter 1735, Littering to resolve confusion for City personnel enforcing the ordinances as well as the public?

## **Policy Alternative(s)**

Council may choose not to amend the City of Hamilton Ordinances: Chapter 301, Definitions, Chapter 351, Parking Generally, and Chapter 1735, Littering. Council may choose to adopt any portion of the proposed amendments rather than adopting all or may choose to amend the specific language of the proposed amendments.

## **Staff Recommendation**

Staff recommends that Council receives this report, concurs with the proposed ordinance amendments and adopts the necessary legislation to amend the City Ordinance Chapters: 301, Definitions, Chapter 351, Parking Generally, and Chapter 1735, Littering to resolve confusion for City personnel enforcing the ordinances as well as the public.

## **Statutory/Policy Authority**

- Section 3.09, Legislative Procedure, of the Charter of the City of Hamilton.

## **Fiscal Impact Summary**

The City's current fiscal impact includes any staff time allotted to the proposed amendments to the Chapters: 301, Definitions, Chapter 351, Parking Generally, and Chapter 1735, Littering, is estimated at approximately \$2000.00.

## **Background Information**

Automobiles, boats, campers, trailers and other vehicles that are inoperable, illegally stored, or illegally parked on private property fall under the purview of three different ordinances that are enforced by three different departments of the City Administration: the Police, Health, and Planning Departments.

The three departments cooperate and coordinate as much as practical when enforcing these areas of overlap. However, there are some minor conflicts in the regulations that lead to confusion not only for the personnel enforcing the ordinances, but also for the public.

In order to eliminate these conflicts, and provide more efficient enforcement and removal of junk or abandoned campers, boats and trailers as well as automobiles, staff members from Police, Health, Engineering, and Planning formed a committee to align the separate ordinance sections and provide clearer language. The committee proposed amendments were sent for legal review by the City's legal counsel, Frost Brown Todd. After legal review and revisions, the proposed amendments were presented at the June 17, 2020 meeting of the Ordinance Review Commission (ORC). During the ORC meeting, it was noted that the submitted amendments to section 351.03 subsection A were pending additional discussions with the City's Engineering Department and would be further amended from what was presented. Post the ORC meeting, Engineering/Traffic, Police, and Zoning Departments met and revised the section to better define the exceptions as presented in attached Exhibit B. The final redlines with comment from the June 17, 2020 ORC meeting of the proposed changes are attached as Exhibit A.

## **Legal Review**

The City's legal department as well as the Ordinance Review Commission have reviewed the proposed changes.



**Notification**

A notice of public hearing for the August 12, 2020 City Council meeting was posted July 27, 2020, on the City Website.

Planning received no inquiries pertaining to the proposed text amendments.

**Approval Recommendation**

It is the recommendation of the Planning Department that Council receives this report, concurs in the recommendation of the Planning Staff, conducts a public hearing, and directs the passage of the necessary legislation.

**Attached Information**

- Exhibit A - Redlines of the Proposed Changes to the Codified Ordinances (June 17, 2020 ORC Meeting)
- Exhibit B - Redline of the Proposed Changes to Section 351.03(a) Post Ordinance Review
- Exhibit C - Final Redline of Proposed Changes with Formatting Corrections
- Notice of Public Hearing, City Council August 12, 2020

**Copies Provided to:**

N/A



**Report to the Ordinance Review Committee on Proposed Amendments to City of  
Hamilton Ordinances: Chapter 301, Definitions, Chapter 351, Parking Generally, and  
Chapter 1735, Littering**

Automobiles and other vehicles that are inoperable, illegally stored or parked on private property fall under the purview of three different ordinances that are enforced by three different departments of the City of Hamilton: the Police, Health and Planning Departments.

The three departments cooperate and coordinate as much as practical when enforcing these areas of overlap. However, there are some minor conflicts in the regulations that lead to confusion for the personnel enforcing the ordinances and for the general public.

In order to eliminate these conflicts, the following amendments are proposed. The items marked thru in ~~red~~ are existing language to be removed the **highlighted** items are new language.

**301.20 MOTOR VEHICLE.**

~~—"Motor vehicle" means every vehicle propelled or drawn by power other than muscular power, except motorized bicycles, electric bicycles, road rollers, traction engines, power shovels, power cranes and other equipment used in construction work and not designed for or employed in general highway transportation, hole digging machinery, well drilling machinery, ditch digging machinery, farm machinery, and trailers designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a street or highway for a distance of no more than ten miles and at a speed of twenty five miles per hour or less. (ORC 4511.01(B))~~

- (a) "Vehicle" means every device, including but not limited to automobiles, trucks, semi tractors, buses, watercraft, trailers, mobile homes, recreational vehicles, farm machinery, construction equipment, and other motorized vehicles, in, upon or by which any person or property may be transported or drawn upon a street or highway, except that "vehicle" does not include any motorized wheelchair, any electric personal assistive mobility device, or any device, that is moved by human power.
- (b) "Recreational Vehicle" means any vehicle or structure including but not limited to camper trailers, fifth wheel campers, truck campers and self-propelled motor homes constructed in such a manner as to permit occupancy thereof as sleeping quarters or the conduct of any business, trade or occupation or use as a selling or advertising device, or use for storage or conveyance for tools, equipment or machinery, and so designed that it is or may be mounted on wheels and used as a conveyance on highways and streets, propelled or drawn by its own or other motor power.

351.99(a)(3) Effective April 10, 1995, every person who violates Section 351.03.1, 351.03(u), 351.13, 351.131, 351.15, 351.14, 351.17 and 353.071 shall be fined fifty dollars (\$50.00) if paid before midnight of the day on which a citation is issued for such violation. If the fine is paid after midnight of the date of violation but within twenty-four (24) hours of the violation, the fine shall be seventy-five dollars (\$75.00). If the fine is paid

after twenty-four (24) hours from the time of the violation, the fine shall be one hundred dollars (\$100.00).

### **351.03.1 PROHIBITED IDLING AND PARKING OF CERTAIN TRUCKS AND BUSES AND ALL SEMITRAILERS AND SEMITRACTORS IN A RESIDENCE DISTRICT; EXCEPTIONS.**

Except as provided in this section, no person shall idle or park any bus, including a school bus, nor any truck with a certified gross vehicle weight **or registered weight, whichever is greater**, for the specific truck of more than ten thousand (10,000) pounds, nor any semitrailer or semi-tractor, on any street, alley or in any yard area (front, back or side) or on any driveway or on any private property in any residence district within the City. As to buses, this prohibition is effective regardless of whether such bus or school bus is actually used for, or is currently being used for, the transportation of persons for compensation.

(a) This provision does not apply to a truck, bus, semitrailer, semi-tractor when standing, or parking:

- (1) Due to an emergency, or
- (2) For the loading or unloading of passengers, or
- (3) For the loading or unloading of cargo, or
- (4) As directed by a police officer, or
- (5) If such vehicle is owned or operated by the Municipality while the operator of such vehicle is carrying out official duties.

(b) This prohibition does not apply to school buses, as defined in Section [301.35](#) herein, between the hours of 8:00 a.m. to 5:00 p.m. on weekdays.

### **355.01 DEFINITIONS.**

As used in this chapter:

(a) "Abandoned junk-~~motor~~ vehicle" means any ~~motor~~ vehicle meeting all of the following requirements:

(1) Left on private property for more than **four** (4) ~~seventy-two~~ hours without the permission of the person having the right to the possession of the property, on a public street or other property open to the public for purposes of vehicular travel or parking, or upon or within the right of way of any road or highway for **seventy-two** (72) ~~twenty-four~~ hours or longer;

~~(2) Three years old or older;~~

(3) Without a current license displayed on the vehicle. ~~Extensively damaged, such damage including but not limited to any of the following: missing wheels, tires, motor or transmission;~~

(4) Apparently inoperable due to mechanical malfunction or extensive damage; such damage including but not limited to any of the following: missing wheels, tires, motor or transmission;; (Ord. 7904. Passed 10-9-74.)

~~—(5) Having a fair market value of one thousand five hundred dollars (\$1,500) or less. (Ord. 2003-6-40. Passed 6-11-03.)~~

(b) "Property" means any real property within the City which is not a street or highway.

### **355.02 WILLFULLY ABANDONING A VEHICLE.**

(a) (1) No person shall willfully leave a vehicle or “abandoned junk ~~motor~~-vehicle” on private property for more than **seventy-two** (72) hours without permission of the person having the right to the possession of the property, or on a public street or other property open to the public for purposes of vehicular travel or parking, or upon or within the right of way of any road or highway for **seventy-two (72) hours** or longer without notification to the Chief of Police of the reasons for leaving the vehicle in such place. Said vehicle must have a valid license, and registration **and be in legally road operable condition.**

(2) For the purposes of this section, the fact that a vehicle has been so left without permission or notification is prima-facie evidence of abandonment.

(b) Whoever violates this section is guilty of a minor misdemeanor, and shall also be assessed any costs incurred by the Municipality in disposing of such junk ~~motor~~ vehicle, less any money accruing to the Municipality from such disposal.

(ORC 4513.99)

### **355.03 ~~MOTOR~~-VEHICLE LEFT ON PRIVATE PROPERTY.**

The Chief of Police, upon complaint of any person adversely affected, may order into storage any ~~motor~~ vehicle, other than an abandoned junk ~~motor~~ vehicle which has been left on private property for more than four (4) hours without the permission of the person having the right to the possession of the property. The place of storage shall be designated by the Chief of Police. The owner of the ~~motor~~-vehicle may reclaim it upon payment of any expenses or charges incurred in its removal and storage, and presentation of proof of ownership, which may be evidenced by a certificate of title to the ~~motor~~-vehicle. If the ~~motor~~ vehicle remains unclaimed by the owner for thirty days, the procedures established by Sections 355.05 et seq. shall apply.

### **355.04 JUNK ~~MOTOR~~ VEHICLE; ORDER TO COVER OR REMOVE.**

For the purposes of this section “junk ~~motor~~ vehicle” means any ~~motor~~ vehicle meeting the requirements of Section [355.01](#)(a)(2 and 3) to (5) that is left ~~uncovered~~ in the open on private property for more than **seventy-two** (72) hours with the permission of the person having the right to the possession of the property, except if the person is operating an approved junk yard or scrap metal processing facility licensed under authority of Ohio R.C. 4737.05 to 4737.12; or regulated under authority of the City; or if the property on which the ~~motor~~ vehicle is left is not subject to licensure or regulation by any governmental authority, unless the person having the right to the possession of the property can establish that the ~~motor~~-vehicle is part of a bona fide commercial operation; ~~or if the motor vehicle is a collector's vehicle.~~

The Chief of Police may send notice by certified mail with return receipt requested to the person having the right to the possession of the property on which a junk ~~motor~~ vehicle is left, that within **seventy-two (72) hours** ~~ten days~~ of receipt of the notice, the junk ~~motor~~-vehicle either shall ~~be covered by being~~ housed in a garage or other suitable structure or shall be removed from the property. Parking, storing, leaving, or permitting the parking or storing of any junk vehicle, non-operating vehicle, or vehicle parts, whether attended or not attended, in a carport, under a car cover, or behind a fence, for a period in excess of **seventy-two (72) hours** upon any private property within the City is a violation of this ordinance.

No person shall willfully leave a ~~junk~~-motor vehicle ~~uncovered~~ in the open for more than **seventy-two (72) hours** ~~ten days~~ after receipt of a notice as provided in this section. The fact that a junk ~~motor~~-vehicle is so left is prima-facie evidence of willful failure to comply with the notice, and each subsequent period of than **seventy-two (72) hours** ~~thirty days~~ that a junk ~~motor~~-vehicle continues to be left constitutes a separate offense.

### 355.05 ~~MOTOR~~ VEHICLE LEFT ON PUBLIC PROPERTY.

The Chief of Police may order into storage any ~~motor~~-vehicle other than an abandoned junk ~~motor~~-vehicle which has been left on a public street or other property open to the public for purposes of vehicular travel, or upon or within the right of way of any road or highway, for twenty-four (24) hours or longer without notification to the Chief of the reasons for leaving the ~~motor~~ vehicle in such place. The Chief shall designate the place of storage of any ~~motor~~ vehicle ordered removed by him.

The Chief of Police shall immediately cause a search to be made of the records of the Bureau of Motor Vehicles to ascertain the owner and any lienholder of a ~~motor~~-vehicle ordered into storage by the Chief, and if known, shall send notice to the owner or lienholder at his last known address by certified mail with return receipt requested, that the ~~motor~~ vehicle will be declared a nuisance and disposed of if not claimed within ten days of the date of mailing of the notice. The owner or lienholder of the ~~motor~~ vehicle may reclaim it upon payment of any expenses or charges incurred in its removal and storage, and presentation of proof of ownership, which may be evidenced by a certificate of title to the ~~motor~~-vehicle.

If the owner or lienholder makes no claim to the ~~motor~~ vehicle within ten (10) days of the date of mailing of the notice, the Chief of Police shall dispose of such vehicle in the manner provided in the third paragraph of Ohio R.C. 4513.61 and Section [355.06](#). Provided, however, any ~~motor~~ vehicle meeting the requirements of Section [355.01](#)(a)(3) to (45) which has remained unclaimed by the owner or lienholder for a period of ten (10) days or longer following notification as provided in this section may be disposed of as provided in Section [355.07](#).

### 351.03 PROHIBITED STANDING OR PARKING PLACES.

No person shall stand or park a vehicle in any of the following places, except when necessary to avoid conflict with other traffic, to comply with provisions of this Traffic Code, while obeying the directions of a police officer or a traffic control device, or in case of an emergency:  
(Ord. 2004-2-8. Passed 2-11-04.)

(a) On a sidewalk, curb or street lawn area, except a bicycle, ~~and except when any portion of the vehicle is parked on a paved surface or concrete pad situated within the street lawn area, so long as a minimum of four (4) feet of sidewalk are available.~~

(Ord. 2018-10-95. Passed 10-10-18.)

- (b) In front of or within five feet (5') of a public or private driveway;
- (c) Within an intersection;
- (d) Within ten feet (10') of a fire hydrant;
- (e) On a crosswalk;
- (f) Within twenty feet (20') of a crosswalk at an intersection;
- (g) Within thirty feet (30') of, and upon the approach to, any flashing beacon, stop sign or traffic control device;
- (h) Between a safety zone and the adjacent curb or within thirty feet (30') of points on the curb immediately opposite the end of a safety zone, unless a different length is indicated by a traffic control device;
- (i) Within fifty feet (50') of the nearest rail of a railroad crossing;
- (j) Within twenty feet (20') of a driveway entrance to any fire station and, on the side of the street opposite the entrance to any fire station, within seventy-five feet (75') of the entrance when it is properly posted with signs;
- (k) Alongside or opposite any street excavation or obstruction when such standing or parking would obstruct traffic;
- (l) Alongside any vehicle stopped or parked at the edge or curb of a street;

6/17/2020 ORC Meeting Note: During the ORC Meeting, presenter Larry Bagford, Planning and Zoning Specialist, noted the amendments as presented to ORC would not be going forward. Instead, the committee would meet with Engineering/Traffic to better amend this section.

- (m) Upon any bridge or other elevated structure upon a street, or within a street tunnel;
- (n) At any place where signs prohibit stopping, standing or parking, or where the curbing is painted yellow, or at any place in excess of the maximum time limited by signs; and in any off-street parking area which is posted as being reserved for City elected officials, City employees or City vehicles, or at any on-street parking location which is reserved for City vehicles;
- (o) Within one foot (1') of another parked vehicle;
- (p) On the roadway portion of a freeway, expressway or thruway.
- (q) In any monthly rental space in the Municipal surface parking lots or the Municipal Parking Garage which is rented or leased to another person or which is not rented or leased to another person.
- (r) In any hourly rental space in the Municipal Parking Garage if such person is a monthly rental lessee in the Municipal Parking Garage.
- (s) In any parking space assigned to Butler County, Ohio, pursuant to ordinance adopted by Council, and located:
  - (1) On the east side of Front Street between High Street and Market Street and being within the following described area: beginning one hundred and eight feet (108') north of High Street and extending north to a point a distance of fifty feet; and
  - (2) In the municipal surface parking lot situated upon parts of Lot Number 120 located at the southeast corner of Magnolia Street and Riverfront Plaza in the Second Ward of the City.  
(Ord. 2004-1-2. Passed 1-14-04.)
- (t) In any on-street parking space designated for use by the handicapped, as defined in Section [351.04](#)(e), unless the vehicle standing or parked is operated by a handicapped person or is being used to transport a handicapped person and bears a special handicapped license plate or other identification as provided in Section [351.04](#)(f). (Ord. 2008-8-95. Passed 8-13-08.)
- (u) At any posted bus stop or taxicab stand during the hours 6:00 a.m. to 7:00 p.m., Monday through Friday.  
(Ord. 2004-1-2. Passed 1-14-04.)
- (v) In any of the three parking spaces assigned to the Hamilton, Ohio, City of Sculpture, an Ohio non-profit corporation, pursuant to an ordinance adopted by Council, and located on the west side of Monument Avenue between Third Street and High Street and being within the following described area: beginning sixty-four feet (64') north of Third Street and extending north to a point a distance of sixty-three feet (63'). (Ord. 2004-2-8. Passed 2-11-04.)

### **351.17 NO PARKING OF ~~MOTOR~~ VEHICLES IN YARDS.**

No person, operator, or owner of a vehicle, motor vehicle, motorcycle, motorized bicycle, commercial tractor, bus, trailer, **camper, recreational vehicle, boat** or semi-trailer shall park the same or permit the same to be parked between ~~the building line of~~ a building or structure and the public right-of-way of the abutting street or alley unless the same is parked on a driveway which is surfaced with an asphaltic, concrete, cement binder, ~~or approved pervious paving products so as to provide a dustless, mud-free surface, free of standing water that shall be graded~~ and drained per the Director of Engineering's approval.

In addition to any other penalty permitted by law, the penalty for violation of this provision shall be as set forth in Section [351.99](#)(a)(3).

**1735.18: MAINTAINING PRIVATE PROPERTY FREE OF LITTER.**

- (a) The owner, operator, or occupant of any private property shall at all times maintain the property free of litter. All litter shall be stored in authorized private containers for collection.
- (b) Unused lumber and abandoned, unused or inoperative **vehicles automobiles, auto parts,** washers, dryers, refrigerators, and other such appliances, equipment and like items shall be stored in an enclosed structure upon all private property.
- (c) The storage of such items listed in this section must comply with **any and** all health, **zoning,** fire, and building codes, and such other regulations, orders, ordinances, or statutes as may apply.

**1735.19 NOTICE OF VIOLATION.**

- (a) The Commissioner of Health shall notify the owner, operator, or occupant of any property to properly dispose of litter located on such property that is dangerous or a nuisance to public health, safety, and welfare.
- (b) Notice by the Commissioner of Health shall be in the form of a letter and service of such notice may be by personal service or by regular mail. Service by regular mail shall be evidenced by a certificate of mailing and shall be deemed received three (3) business days from the date of mailing. It shall be deemed sufficient to mail the notice to the owner's, operator's, or occupant's residence, regular place of business, or last known address.
- (c) If the property in violation of this chapter is unimproved with no structure upon which to post notification of the violation or has no mailbox upon which to mail notification of the violation, the Commissioner of Health may cause the notification of violation to be posted upon the land.

**1735.20 EFFECT OF NONCOMPLIANCE; CITY MAY REMOVE VIOLATION.**

- (a) Upon receiving a notice of violation regarding a junk, inoperable, unlicensed or abandoned vehicle the owner, operator, or occupant of the property is required to abate the condition within **seventy-two (72) forty-eight (48)** hours from receipt of the notice of violation.
- (b) Upon receiving a notice of violation of this chapter, the owner, operator, or occupant of the property is required to abate the condition within **Seventy-two (72) forty-eight (48)** hours from receipt of the notice of violation.
- (c) Whenever a notice or order to remove a violation has not been complied with, the Commissioner of Health may proceed to cause the violation to be removed after the Commissioner of Health has documented sufficient proof to support such determination of non-compliance.
  - (1) The owner, operator, or occupant of the property shall then be notified of such finding by the Commissioner of Health in the manner described in Section [1735.19](#).
  - (2) The Commissioner of Health shall not commence their abatement for a vehicle until **seventy-two (72) forty-eight (48)** hours for all other violations after the subsequent notification required by Section [1735.20](#)(b)(1).

**1735.21 EXPENSE RECOVERABLE.**

**1735.22 JUNK ~~MOTOR~~ VEHICLES ON PRIVATE PROPERTY WITH PERMISSION OF OWNER; NOTICE OF REMOVAL AND IMPOUNDING.**

(a) It shall be a violation of this chapter to accumulate and store junk ~~motor~~ vehicles, non-operating ~~motor~~ vehicles or vehicle parts, on private property, which ~~motor~~ vehicles are in the nature of refuse and unsightly debris.

(b) Accumulation and storage of the items in this section constitutes a nuisance detrimental to the health, safety and welfare of the community in that such conditions tend to interfere with the enjoyment of and reduce the value of private property, invite plundering, create fire hazards and other safety and health hazards to minors as well as adults. Further, these conditions interfere with the comfort and well-being of the public and create, extend, and aggravate urban blight. Accordingly, the public health, safety, and general welfare require that such conditions be regulated, abated and prohibited.

(c) Definitions. For the purposes of this section:

(1) "Vehicle" means every device, including but not limited to automobiles, trucks, semi tractors, buses, watercraft, trailers, mobile homes, recreational vehicles, farm machinery, construction equipment, and other motorized vehicles, in, upon or by which any person or property may be transported or drawn upon a street or highway, except that "vehicle" does not include any motorized wheelchair, any electric personal assistive mobility device, or any device, that is moved by human power.

(2) "Recreational Vehicle" means any vehicle or structure including but not limited to camper trailers, fifth wheel campers, truck campers and self-propelled motor homes constructed in such a manner as to permit occupancy thereof as sleeping quarters or the conduct of any business, trade or occupation or use as a selling or advertising device, or use for storage or conveyance for tools, equipment or machinery, and so designed that it is or may be mounted on wheels and used as a conveyance on highways and streets, propelled or drawn by its own or other motor power.

(3) "Junk ~~Motor~~ vehicle" means any motor vehicle which:

~~A. Is three (3) years old or older;~~

~~B. A. Extensively damaged, with such damage including, but not limited to, any of the following: missing wheels, tires, motor, or transmission;~~

~~C. B. Apparently inoperable;~~

~~D. Having a fair market value, as determined by Kelley Blue Book, NADA, or other similar publication, of one thousand five hundred dollars (1,500) or less; and~~

~~E. C. That:~~

~~(i) Is left outside of a building, and thus is in the open on private property for more than **seventy-two (72)** ~~forty-eight (48)~~ hours; or~~

~~(ii) Has been left on private property for more than **seventy-two (72)** ~~forty-eight (48)~~ hours without the permission of the person having the right to the possession of the property.~~

~~1.~~ (4) "Left outside of a building" means that the ~~motor~~ vehicle has not been placed in an enclosed structure or building with at least three (3) sides. Neither a carport, nor a car cover, nor a fence, qualifies an enclosed structure or building with at least three (3) sides.

~~2.~~ (5) "Non-operating ~~Motor~~ vehicle" means:

A. Any ~~motor~~ vehicle not bearing current, valid, state license plates; or

B. Any ~~motor~~ vehicle partly disassembled, incapable of satisfying state standards of safe operation or incapable of moving under its own power, whether bearing

current, valid, state license plates or not. Any ~~motor~~ vehicle not moved within thirty days shall be presumed to be incapable of moving under its own power.

3. (6) "Property" means any real property within the City, which is not a street or highway.
4. (7) "Vehicle part" means any portion or part of a ~~motor~~ vehicle.

(d) Storage on Private Property.

- (1) No person shall park, store, leave, or permit the parking or storing of any junk ~~motor~~ vehicle, non-operating ~~motor~~ vehicle, or vehicle parts, whether attended or not, for a period in excess of **seventy-two (72)** ~~forty-eight (48)~~ hours upon any private property within the City, unless the same is completely enclosed within a building, having three (3) or more sides, or unless it is in connection with a business enterprise operated in a lawful place and manner and licensed as such, when necessary to the operation of such business enterprise, ~~or it is a collector's vehicle pursuant to Ohio Revised Code section 4501.01(F), as may be amended from time to time.~~
- (2) ~~Neither a carport, nor a car cover, nor a fence meets the requirement under subsection (d)(1) of this Section 1735.22 of completely enclosed within a building having three (3) or more sides.~~ Therefore, Parking, storing, leaving, or permitting the parking or storing of any junk ~~motor~~ vehicle, non-operating ~~motor~~ vehicle, or vehicle parts, whether attended or not attended, in a carport, under a car cover, or behind a fence, for a period in excess of **seventy-two (72)** ~~forty-eight (48)~~ hours upon any private property within the City is a violation of this section and this chapter.

(e) Removal Required.

- (1) The accumulation and storage of one (1) or more such junk ~~motor~~ vehicles, non-operating ~~motor~~ vehicles, or vehicle parts in violation of the provisions of this section shall constitute refuse and unsightly debris and shall constitute a nuisance, detrimental to the health, safety and general welfare of the inhabitants of the City.
- (2) The owner, operator, or occupant of the property upon which such nuisance is located otherwise shall remove the nuisance to a place of lawful storage, or shall have the junk ~~motor~~ vehicle, non-operating ~~motor~~ vehicle, or vehicle part housed within a building where it will not be visible from the street or alley.
- (3) Notwithstanding any provisions to the contrary contained in Chapter [1767](#), regulation, enforcement, notice, and abatement shall be pursuant to this section.

(f) Notice to Remove.

- (1) Whenever there are reasonable grounds to believe that a violation of the provisions of this section exists, the Commissioner of Health shall give, or cause to be given, notice to the registered owner of any junk ~~motor~~ vehicle, non-operating ~~motor~~ vehicle, or vehicle part, which is in violation of this section.
- (2) The Commissioner of Health shall give, or cause to be given, written notice to the registered owner of any junk ~~motor~~ vehicle, non-operating ~~motor~~ vehicle, or vehicle part which is in violation of this section; or the Commissioner of Health shall give, or cause to be given written notice to the owner, operator, or occupant of the property upon which such junk ~~motor~~ vehicle, non-operating ~~motor~~ vehicle, or vehicle part is located; or the Commissioner of

Health shall give, or cause to be given, written notice to both the registered owner of the junk ~~motor~~ vehicle, non-operating ~~motor~~ vehicle, or vehicle part and the owner, operator, or the occupant of such property.

- (3) Written notice shall be by United States certified mail with return receipt, commercial carrier service, or by personal service, and shall state that such junk ~~motor~~ vehicle, non-operating ~~motor~~-vehicle, or vehicle part violates the provisions of this section and that within ~~forty-eight (48)~~ **seventy-two (72)** hours, the junk ~~motor~~ vehicle, non-operating ~~motor~~ vehicle, or vehicle part is to be removed to a place of lawful storage or to be housed in a building where it will not be visible from the street or alley.

(g) Removal by City.

- (1) In addition to, and not in lieu of any other procedure or penalty prescribed in this section or in the Traffic Code for removal of abandoned-~~motor~~ vehicles from private property, if the registered owner of any junk ~~motor~~ vehicle, non-operating ~~motor~~ vehicle, or vehicle part which is in violation of this section, or the owner, operator, or occupant of the private property upon which the same is located, fails, neglects, or refuses to remove or house such junk ~~motor~~ vehicle, non-operating ~~motor~~ vehicle, or vehicle part in accordance with the notice given pursuant to the provisions of subsection (f) hereof, the Commissioner of Health may remove and dispose of such junk ~~motor~~ vehicle, non-operating ~~motor~~-vehicle, .05provisions of this section. No person shall interfere, hinder or refuse to allow them to enter upon private property for such purpose and to remove any junk ~~motor~~ vehicle, non-operating ~~motor~~ vehicle, or vehicle part in accordance with the provisions of this section.
- (2) Any person to whom notice was given pursuant to subsection (f) hereof shall have the right to remove or house such ~~motor~~ vehicle in accordance with such notice at his expense at any time prior to the arrival of the Commissioner of Health or his or her authorized representatives as listed above in (h)(1), for the purpose of removal.

(i) Penalty for Junk ~~Motor~~ Vehicle Offense.

- (1) Whoever violates any prohibition contained in this section is guilty of a minor misdemeanor, and in addition to any other penalty authorized by law, shall be assessed any costs incurred by the City in disposing of such junk ~~motor~~ vehicle, non-operating ~~motor~~ vehicle or vehicle part, plus administrative costs in the amount of twenty-five (25%) percent of the total costs incurred, and less any money accruing to the City from such disposal.
- (2) Each day such violation exists or is permitted to continue shall constitute a separate offense.

**351.03 PROHIBITED STANDING OR PARKING PLACES.**

No person shall stand or park a vehicle in any of the following places, except when necessary to avoid conflict with other traffic, to comply with provisions of this Traffic Code, while obeying the directions of a police officer or a traffic control device, or in case of an emergency:

(Ord. 2004-2-8. Passed 2-11-04.)

(a) On a sidewalk, curb or street lawn area, except a bicycle, and except when ~~any portion of the vehicle is parked on a paved surface or concrete pad situated within the street lawn area, so long as a minimum of four (4) feet of sidewalk are available.~~ all of the following circumstances are met:

1) on streets that are less than thirty (30) feet wide from edge of pavement to edge of pavement;

2) when the front and rear tires of either the driver side or passenger side of the vehicle are parked parallel to the roadway;

3) on a paved surface or concrete pad situated within the street lawn area which does not exceed one third of the residential lot frontage;

4) a minimum of four (4) feet of sidewalk remains available;

5) and the other remaining wheels are on the roadway.

~~(Ord. 2018-10-95. Passed 10-10-18.)~~

EXHIBIT C – FINAL REDLINE  
OF PROPOSED CHANGES  
WITH FORMATTING  
CORRECTIONS

Proposed Revisions to Chapter 301 – Definitions

**301.20 MOTOR VEHICLE. (REPEALED)**

~~"Motor vehicle" means every vehicle propelled or drawn by power other than muscular power, except motorized bicycles, electric bicycles, road rollers, traction engines, power shovels, power cranes and other equipment used in construction work and not designed for or employed in general highway transportation, hole digging machinery, well drilling machinery, ditch digging machinery, farm machinery, and trailers designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a street or highway for a distance of no more than ten miles and at a speed of twenty five miles per hour or less. (ORC 4511.01(B))~~

**301.51 VEHICLE.**

~~"Vehicle" means Every device, including but not limited to automobiles, trucks, semi tractors, buses, watercraft, trailers, mobile homes, recreational vehicles, farm machinery, construction equipment, and other motorized vehicles a motorized bicycle and an electric bicycle, in, upon or by which any person or property may be transported or drawn upon a street or highway, except that "vehicle" does not include any motorized wheelchair, any electric personal assistive mobility device, or any device, other than a bicycle, that is moved by human power. (ORC 4511.01(A))~~

**301.301 RECREATIONAL VEHICLE.**

~~Any vehicle or structure including but not limited to camper trailers, fifth wheel campers, truck campers and self-propelled motor homes constructed in such a manner as to permit occupancy thereof as sleeping quarters or the conduct of any business, trade or occupation or use as a selling or advertising device, or use for storage or conveyance for tools, equipment or machinery, and so designed that it is or may be mounted on wheels and used as a conveyance on highways and streets, propelled or drawn by its own or other motor power.~~

Proposed Revisions to Chapter 351– Parking Generally

**351.03 PROHIBITED STANDING OR PARKING PLACES.**

No person shall stand or park a vehicle in any of the following places, except when necessary to avoid conflict with other traffic, to comply with provisions of this Traffic Code, while obeying the directions of a police officer or a traffic control device, or in case of an emergency:

- (a) On a sidewalk, curb or street lawn area, except a bicycle, and except when all of the following circumstances are met: any portion of the vehicle is parked on a paved surface or concrete pad situated within the street lawn area, so long as a minimum of four (4) feet of sidewalk are available.
  - 1) on streets that are less than thirty (30) feet wide from edge of pavement to edge of pavement;
  - 2) when the front and rear tires of either the driver side or passenger side of the vehicle are parked parallel to the roadway.
  - 3) on a paved surface or concrete pad situated within the street lawn area which does not exceed one third of the residential lot frontage;
  - 4) a minimum of four (4) feet of sidewalk remains available;
  - 5) and the other remaining wheels are on the roadway.
- (b) In front of or within five feet (5') of a public or private driveway;
- (c) Within an intersection;
- (d) Within ten feet (10') of a fire hydrant;
- (e) On a crosswalk;
- (f) Within twenty feet (20') of a crosswalk at an intersection;
- (g) Within thirty feet (30') of, and upon the approach to, any flashing beacon, stop sign or traffic control device;
- (h) Between a safety zone and the adjacent curb or within thirty feet (30') of points on the curb immediately opposite the end of a safety zone, unless a different length is indicated by a traffic control device;
- (i) Within fifty feet (50') of the nearest rail of a railroad crossing;
- (j) Within twenty feet (20') of a driveway entrance to any fire station and, on the side of the street opposite the entrance to any fire station, within seventy-five feet (75') of the entrance when it is properly posted with signs;
- (k) Alongside or opposite any street excavation or obstruction when such standing or parking would obstruct traffic;
- (l) Alongside any vehicle stopped or parked at the edge or curb of a street;
- (m) Upon any bridge or other elevated structure upon a street, or within a street tunnel;
- (n) At any place where signs prohibit stopping, standing or parking, or where the curbing is painted yellow, or at any place in excess of the maximum time limited by signs; and in any off-street parking area which is posted as being reserved for City elected officials, City employees or City vehicles, or at any on-street parking location which is reserved for City vehicles;
- (o) Within one foot (1') of another parked vehicle;
- (p) On the roadway portion of a freeway, expressway or thruway.
- (q) In any monthly rental space in the Municipal surface parking lots or the Municipal Parking Garage which is rented or leased to another person or which is not rented or leased to another person.
- (r) In any hourly rental space in the Municipal Parking Garage if such person is a monthly rental lessee in the Municipal Parking Garage.
- (s) In any parking space assigned to Butler County, Ohio, pursuant to ordinance adopted by Council, and located:
  - (1) On the east side of Front Street between High Street and Market Street and being within the following described area: beginning one hundred and eight feet (108') north of High Street and extending north to a point a distance of fifty feet; and



(2) In the municipal surface parking lot situated upon parts of Lot Number 120 located at the southeast corner of Magnolia Street and Riverfront Plaza in the Second Ward of the City.

(Ord. 2004-1-2. Passed 1-14-04.)

(t) In any on-street parking space designated for use by the handicapped, as defined in Section 351.04(e), unless the vehicle standing or parked is operated by a handicapped person or is being used to transport a handicapped person and bears a special handicapped license plate or other identification as provided in Section 351.04(f). (Ord. 2008-8-95. Passed 8-13-08.)

(u) At any posted bus stop or taxicab stand during the hours 6:00 a.m. to 7:00 p.m., Monday through Friday.

(v) In any of the three parking spaces assigned to the Hamilton, Ohio, City of Sculpture, an Ohio non-profit corporation, pursuant to an ordinance adopted by Council, and located on the west side of Monument Avenue between Third Street and High Street and being within the following described area: beginning sixty-four feet (64') north of Third Street and extending north to a point a distance of sixty-three feet (63').

### **351.03.1 PROHIBITED IDLING AND PARKING OF CERTAIN TRUCKS AND BUSES AND ALL SEMITRAILERS AND SEMITRACTORS IN A RESIDENCE DISTRICT; EXCEPTIONS.**

Except as provided in this section, no person shall idle or park any bus, including a school bus, nor any truck with a certified gross vehicle weight or registered weight, whichever is greater, for the specific truck of more than ten thousand (10,000) pounds, nor any semitrailer or semi-tractor, on any street, alley or in any yard area (front, back or side) or on any driveway or on any private property in any residence district within the City. As to buses, this prohibition is effective regardless of whether such bus or school bus is actually used for, or is currently being used for, the transportation of persons for compensation.

(a) This provision does not apply to a truck, bus, semitrailer, semi-tractor when idlingstanding, or parking:

- (1) Due to an emergency, or
- (2) For the loading or unloading of passengers, or
- (3) For the loading or unloading of cargo, or
- (4) As directed by a police officer, or
- (5) If such vehicle is owned or operated by the Municipality while the operator of such vehicle is carrying out official duties.

(b) This prohibition does not apply to school buses, as defined in Section 301.35 herein, between the hours of 8:00 a.m. to 5:00 p.m. on weekdays.

### **351.17 NO PARKING OF ~~MOTOR~~ VEHICLES IN YARDS.**

No person, operator, or owner of a vehicle, motor vehicle, motorcycle, motorized bicycle, commercial tractor, bus, trailer, camper, recreational vehicle, boat or semi-trailer shall park the same or permit the same to be parked between the building line of a building or structure and the public right-of-way of the abutting street or alley unless the same is parked on a driveway which is surfaced ~~in accordance with Section 1137.33 of the City of Hamilton Zoning Ordinance.~~ with an asphaltic, concrete, cement binder, and drained per the Director of Engineering's approval.

In addition to any other penalty permitted by law, the penalty for violation of this provision shall be as set forth in Section 351.99(a)(3).



**351.99(a)(3) PENALTY.**

(3) Effective April 10, 1995, every person who violates Section 351.03.1, 351.03(u), 351.13, 351.131, 351.15, 351.14, 351.17 and 353.07 1 shall be fined fifty dollars (\$50.00) if paid before midnight of the day on which a citation is issued for such violation. If the fine is paid after midnight of the date of violation but within twenty-four (24) hours of the violation, the fine shall be seventy-five dollars (\$75.00). If the fine is paid after twenty-four (24) hours from the time of the violation, the fine shall be one hundred dollars (\$100.00).



Proposed Revisions to Chapter 355– Junk and Abandoned Vehicles

**355.01 DEFINITIONS.**

As used in this chapter:

- (a) "Abandoned junk ~~motor~~ vehicle" means any ~~motor~~ vehicle meeting all of the following requirements:
- (1) Left on private property for more than ~~four (4)seventy-two~~ hours without the permission of the person having the right to the possession of the property, on a public street or other property open to the public for purposes of vehicular travel or parking, or upon or within the right of way of any road or highway for ~~seventy-two (72)twenty-four~~ hours or longer;  
~~(2) Three years old or older;~~
  - (3) Without a current license displayed on the vehicle. ~~Extensively damaged, such damage including but not limited to any of the following: missing wheels, tires, motor or transmission;~~
  - (4) Apparently inoperable due to mechanical malfunction or extensive damage; such damage including but not limited to any of the following: missing wheels, tires, motor or transmission;  
~~(5) Having a fair market value of one thousand five hundred dollars (\$1,500) or less.  
(Ord. 2003-6-40. Passed 6-11-03.)~~
- (b) "Property" means any real property within the City which is not a street or highway.

**355.02 WILLFULLY ABANDONING A VEHICLE.**

- (a) (1) No person shall willfully leave a vehicle or "abandoned junk ~~motor~~ vehicle" on private property for more than seventy-two (72) hours without permission of the person having the right to the possession of the property, or on a public street or other property open to the public for purposes of vehicular travel or parking, or upon or within the right of way of any road or highway for seventy-two (72) hours or longer without notification to the Chief of Police of the reasons for leaving the vehicle in such place. Said vehicle must have a valid license, and registration and be in legally road operable condition.
- (2) For the purposes of this section, the fact that a vehicle has been so left without permission or notification is prima-facie evidence of abandonment.
- (b) Whoever violates this section is guilty of a minor misdemeanor, and shall also be assessed any costs incurred by the Municipality in disposing of such junk ~~motor~~ vehicle, less any money accruing to the Municipality from such disposal.  
~~(ORC 4513.99)~~

**355.03 ~~MOTOR~~VEHICLE LEFT ON PRIVATE PROPERTY.**

The Chief of Police, upon complaint of any person adversely affected, may order into storage any ~~motor~~ vehicle, other than an abandoned junk ~~motor~~ vehicle which has been left on private property for more than four (4) hours without the permission of the person having the right to the possession of the property. The place of storage shall be designated by the Chief of Police.

The owner of the ~~motor~~ vehicle may reclaim it upon payment of any expenses or charges incurred in its removal and storage, and presentation of proof of ownership, which may be evidenced by a certificate of title to the ~~motor~~ vehicle. If the ~~motor~~ vehicle remains unclaimed by the owner for thirty days, the procedures established by Sections 355.05 et seq. shall apply.



#### **355.04 JUNK ~~MOTOR~~ VEHICLE; ORDER TO COVER OR REMOVE.**

For the purposes of this section "junk ~~motor~~ vehicle" means any ~~motor~~ vehicle meeting the requirements of Section 355.01(a)(2 and 3) to (5) that is left ~~uncovered~~ in the open on private property for more than seventy-two (72) hours with the permission of the person having the right to the possession of the property, except if the person is operating an approved junk yard or scrap metal processing facility licensed under authority of Ohio R.C. 4737.05 to 4737.12; or regulated under authority of the City; or if the property on which the ~~motor~~ vehicle is left is not subject to licensure or regulation by any governmental authority, unless the person having the right to the possession of the property can establish that the ~~motor~~ vehicle is part of a bona fide commercial operation; ~~or if the motor vehicle is a collector's vehicle.~~

The Chief of Police may send notice by certified mail with return receipt requested to the person having the right to the possession of the property on which a junk ~~motor~~ vehicle is left, that within ~~seventy-two hours ten days~~ of receipt of the notice, the junk ~~motor~~ vehicle ~~either~~ shall be ~~covered by being~~ housed in a garage or other suitable structure or shall be removed from the property. Parking, storing, leaving, or permitting the parking or storing of any junk vehicle, non-operating vehicle, or vehicle parts, whether attended or not attended, in a carport, under a car cover, or behind a fence, for a period in excess of seventy-two (72) hours upon any private property within the City is a violation of this ordinance.

No person shall willfully leave a junk ~~motor~~ vehicle ~~uncovered~~ in the open for more than seventy-two (72) hours ~~ten days~~ after receipt of a notice as provided in this section. The fact that a junk ~~motor~~ vehicle is so left is prima-facie evidence of willful failure to comply with the notice, and each subsequent period of than ~~seventy-two (72) hours thirty days~~ that a junk ~~motor~~ vehicle continues to be left constitutes a separate offense.

#### **355.05 ~~MOTOR~~ VEHICLE LEFT ON PUBLIC PROPERTY.**

The Chief of Police may order into storage any ~~motor~~ vehicle other than an abandoned junk ~~motor~~ vehicle which has been left on a public street or other property open to the public for purposes of vehicular travel, or upon or within the right of way of any road or highway, for twenty-four (24) hours or longer without notification to the Chief of the reasons for leaving the ~~motor~~ vehicle in such place. The Chief shall designate the place of storage of any ~~motor~~ vehicle ordered removed by him.

The Chief of Police shall immediately cause a search to be made of the records of the Bureau of Motor Vehicles to ascertain the owner and any lienholder of a ~~motor~~ vehicle ordered into storage by the Chief, and if known, shall send notice to the owner or lienholder at his last known address by certified mail with return receipt requested, that the ~~motor~~ vehicle will be declared a nuisance and disposed of if not claimed within ten days of the date of mailing of the notice. The owner or lienholder of the ~~motor~~ vehicle may reclaim it upon payment of any expenses or charges incurred in its removal and storage, and presentation of proof of ownership, which may be evidenced by a certificate of title to the ~~motor~~ vehicle.

If the owner or lienholder makes no claim to the ~~motor~~ vehicle within ten (10) days of the date of mailing of the notice, the Chief of Police shall dispose of such vehicle in the manner provided in the third paragraph of Ohio R.C. 4513.61 and Section 355.06. Provided, however, any ~~motor~~ vehicle meeting the requirements of Section 355.01(a)(3) to (45) which has remained unclaimed by the owner or lienholder for a period of ten (10) days or longer following notification as provided in this section may be disposed of as provided in Section 355.07.



Proposed Revisions to Chapter 1735– Littering

**1735.18 MAINTAINING PRIVATE PROPERTY FREE OF LITTER.**

- (a) The owner, operator, or occupant of any private property shall at all times maintain the property free of litter. All litter shall be stored in authorized private containers for collection.
- (b) Unused lumber and abandoned, unused or inoperative vehiclesautomobiles, auto parts, washers, dryers, refrigerators, and other such appliances, equipment and like items shall be stored in an enclosed structure upon all private property.
- (c) The storage of such items listed in this section must comply with ~~any and~~ all health, zoning, fire, and building codes, and such other regulations, orders, ordinances, or statutes as may apply.

**1735.20 EFFECT OF NONCOMPLIANCE; CITY MAY REMOVE VIOLATION.**

- (a) Upon receiving a notice of violation regarding a junk, inoperable, unlicensed or abandoned vehicle the owner, operator, or occupant of the property is required to abate the condition within seventy-two (72)forty-eight (48) hours from receipt of the notice of violation.
- (b) Whenever a notice or order to remove a violation has not been complied with, the Commissioner of Health may proceed to cause the violation to be removed after the Commissioner of Health has documented sufficient proof to support such determination of non-compliance.
- (1) The owner, operator, or occupant of the property shall then be notified of such finding by the Commissioner of Health in the manner described in Section 1735.19.
- (2) The Commissioner of Health shall not commence their abatement for a vehicle until seventy-two (72)forty-eight (48) hours for all other violations after the subsequent notification required by Section 1735.20(b)(1).

**1735.22 JUNK ~~MOTOR~~VEHICLES ON PRIVATE PROPERTY WITH PERMISSION OF OWNER; NOTICE OF REMOVAL AND IMPOUNDING.**

- (a) It shall be a violation of this chapter to accumulate and store junk ~~motor~~ vehicles, non-operating ~~motor~~ vehicles or vehicle parts, on private property, which ~~motor~~ vehicles are in the nature of refuse and unsightly debris.
- (b) Accumulation and storage of the items in this section constitutes a nuisance detrimental to the health, safety and welfare of the community in that such conditions tend to interfere with the enjoyment of and reduce the value of private property, invite plundering, create fire hazards and other safety and health hazards to minors as well as adults. Further, these conditions interfere with the comfort and well-being of the public and create, extend, and aggravate urban blight. Accordingly, the public health, safety, and general welfare require that such conditions be regulated, abated and prohibited.

- (c) Definitions. For the purposes of this section:

(1) “Vehicle” means every device, including but not limited to automobiles, trucks, semi tractors, buses, watercraft, trailers, mobile homes, recreational vehicles, farm machinery, construction equipment, and other motorized vehicles, in, upon or by which any person or property may be transported or drawn upon a street or highway, except that “vehicle” does not include any motorized wheelchair, any electric personal assistive mobility device, or any device, that is moved by human power.

(2) “Recreational Vehicle” means any vehicle or structure including but not limited to camper trailers, fifth wheel campers, truck campers and self-propelled motor homes constructed in such



a manner as to permit occupancy thereof as sleeping quarters or the conduct of any business, trade or occupation or use as a selling or advertising device, or use for storage or conveyance for tools, equipment or machinery, and so designed that it is or may be mounted on wheels and used as a conveyance on highways and streets, propelled or drawn by its own or other motor power.

~~(31)~~ “Junk ~~Motor~~ vehicle” means any ~~motor~~ vehicle which:

~~A. Is three (3) years old or older;~~

~~AB. Extensively damaged, with such damage including, but not limited to, any of the following: missing wheels, tires, motor, or transmission;~~

~~BC. Apparently inoperable;~~

~~D. Having a fair market value, as determined by Kelley Blue Book, NADA, or other similar publication, of one thousand five hundred dollars (1,500) or less; and~~

~~CE. That:~~

~~(i) Is left outside of a building, and thus is in the open on private property for more than seventy-two (72) ~~forty-eight (48)~~ hours; or~~

~~(ii) Has been left on private property for more than seventy-two (72) ~~forty-eight (48)~~ hours without the permission of the person having the right to the possession of the property.~~

~~(42)~~ “Left outside of a building” means that the ~~motor~~ vehicle has not been placed in an enclosed structure or building with at least three (3) sides. Neither a carport, nor a car cover, nor a fence, qualifies an enclosed structure or building with at least three (3) sides.

~~(53)~~ “Non-operating ~~Motor~~ vehicle” means:

A. Any ~~motor~~ vehicle not bearing current, valid, state license plates; or

B. Any ~~motor~~ vehicle partly disassembled, incapable of satisfying state standards of safe current, valid, state license plates or not. Any ~~motor~~ vehicle not moved within thirty days shall be presumed to be incapable of moving under its own power.

~~(64)~~ “Property” means any real property within the City, which is not a street or highway.

~~(75)~~ “Vehicle Part” means any portion or part of a ~~motor~~ vehicle, operation or incapable of moving under its own power, whether bearing.

(d) Storage on Private Property.

(1) No person shall park, store, leave, or permit the parking or storing of any junk ~~motor~~ vehicle, non-operating ~~motor~~ vehicle, or vehicle parts, whether attended or not, for a period in excess of seventy-two (72) ~~forty-eight (48)~~ hours upon any private property within the City, unless the same is completely enclosed within a building, having three (3) or more sides, or unless it is in connection with a business enterprise operated in a lawful place and manner and licensed as such, when necessary to the operation of such business enterprise, or it is a collector's vehicle pursuant to Ohio Revised Code section 4501.01(F), as may be amended from time to time.

(2) Neither a carport, nor a car cover, nor a fence meets the requirement under subsection (d)(1) of this Section 1735.22 of completely enclosed within a building having three (3) or more sides. Therefore, Parking, storing, leaving, or permitting the parking or storing of any junk ~~motor~~ vehicle, non-operating ~~motor~~ vehicle, or vehicle parts, whether attended or not attended, in a carport, under a car cover, or behind a fence, for a period in excess of seventy-two (72) ~~forty-eight (48)~~ hours upon any private property within the City is a violation of this section and this chapter.



(e) Removal Required.

- (1) The accumulation and storage of one (1) or more such junk ~~motor~~-vehicles, non-operating ~~motor~~-vehicles, or vehicle parts in violation of the provisions of this section shall constitute refuse and unsightly debris and shall constitute a nuisance, detrimental to the health, safety and general welfare of the inhabitants of the City.
- (2) The owner, operator, or occupant of the property upon which such nuisance is located otherwise shall remove the nuisance to a place of lawful storage, or shall have the junk ~~motor~~-vehicle, non-operating ~~motor~~-vehicle, or vehicle part housed within a building where it will not be visible from the street or alley.
- (3) Notwithstanding any provisions to the contrary contained in Chapter 1767, regulation, enforcement, notice, and abatement shall be pursuant to this section.

(f) Notice to Remove.

- (1) Whenever there are reasonable grounds to believe that a violation of the provisions of this section exists, the Commissioner of Health shall give, or cause to be given, notice to the registered owner of any junk ~~motor~~-vehicle, non-operating ~~motor~~-vehicle, or vehicle part, which is in violation of this section.
- (2) The Commissioner of Health shall give, or cause to be given, written notice to the registered owner of any junk ~~motor~~-vehicle, non-operating ~~motor~~-vehicle, or vehicle part which is in violation of this section; or the Commissioner of Health shall give, or cause to be given written notice to the owner, operator, or occupant of the property upon which such junk ~~motor~~-vehicle, non-operating ~~motor~~-vehicle, or vehicle part is located; or the Commissioner of Health shall give, or cause to be given, written notice to both the registered owner of the junk ~~motor~~-vehicle, non-operating ~~motor~~-vehicle, or vehicle part and the owner, operator, or the occupant of such property.
- (3) Written notice shall be by United States certified mail with return receipt, commercial carrier service, or by personal service, and shall state that such junk ~~motor~~-vehicle, non-operating ~~motor~~-vehicle, or vehicle part violates the provisions of this section and that within ~~seventy-two (72)forty-eight (48)~~ hours, the junk ~~motor~~-vehicle, non-operating ~~motor~~-vehicle, or vehicle part is to be removed to a place of lawful storage or to be housed in a building where it will not be visible from the street or alley.

(g) Removal by City.

- (1) In addition to, and not in lieu of any other procedure or penalty prescribed in this section or in the Traffic Code for removal of abandoned ~~motor~~-vehicles from private property, if the registered owner of any junk ~~motor~~-vehicle, non-operating ~~motor~~-vehicle, or vehicle part which is in violation of this section, or the owner, operator, or occupant of the private property upon which the same is located, fails, neglects, or refuses to remove or house such junk ~~motor~~-vehicle, non-operating ~~motor~~-vehicle, or vehicle part in accordance with the notice given pursuant to the provisions of subsection (f) hereof, the Commissioner of Health may remove and dispose of such junk ~~motor~~-vehicle, non-operating ~~motor~~-vehicle, provisions of this section. No person shall interfere, hinder or refuse to allow them to enter upon private property for such purpose and to remove any junk ~~motor~~-vehicle, non-operating ~~motor~~-vehicle, or vehicle part in accordance with the provisions of this section.
- (2) Any person to whom notice was given pursuant to subsection (f) hereof shall have the right to remove or house such ~~motor~~-vehicle in accordance with such notice at his expense at any time prior to the arrival of the Commissioner of Health or his or her authorized representatives as listed above in (h)(1), for the purpose of removal.



(i) Penalty for Junk ~~Motor~~-Vehicle Offense.

(1) Whoever violates any prohibition contained in this section is guilty of a minor misdemeanor, and in addition to any other penalty authorized by law, shall be assessed any costs incurred by the City in disposing of such junk ~~motor~~-vehicle, non-operating ~~motor~~-vehicle or vehicle part, plus administrative costs in the amount of twenty-five (25%) percent of the total costs incurred, and less any money accruing to the City from such disposal.

(2) Each day such violation exists or is permitted to continue shall constitute a separate offense.



**August 12, 2020 (6:00 PM) - Public  
Hearing**

Report to the City Council on  
Proposed Amendments to City of  
Hamilton Ordinances: Chapter 301,  
Definitions, Chapter 351, Parking  
Generally, and Chapter 1735,  
Littering.

EP Wilson, AICP  
PLANNER II E.W.  


**August 26, 2020 (6:00 PM) - Public  
Hearing**

Amend Plan Hamilton, City  
Comprehensive Plan, for the  
addition of the North End Corridor  
Revitalization Plan.

## Board Members

- Dale McAllister (Chair)
- Matthew Von Stein, Citizen Member
- Patrick Moeller, Mayor
- Joshua A. Smith, City Manager
- Lisa Sandlin, Alternate Member #1
- Larry Bowling, Alternate Member #2
- Shaquila Mathews, School Board Representative
- Teri Horsley, Citizen Member
- David Belew, Citizen Member
- Liz Hayden, Planning Director  
Commission Secretary

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING AND SUPPLEMENTING PART THREE - TRAFFIC CODE, REPEALING SECTION 301.20 MOTOR VEHICLE, ADDING SECTION 301.301 RECREATIONAL VEHICLE, AND AMENDING SECTION 301.51 VEHICLE OF CHAPTER 301 DEFINITIONS, OF THE CODIFIED ORDINANCES OF THE CITY OF HAMILTON, OHIO.**

WHEREAS, Automobiles, boats, campers, trailers and other vehicles that are inoperable, illegally stored, or illegally parked on private property fall under the purview of three different ordinances that are enforced by three different departments of the City Administration: the Police, Health and Planning Departments; and

WHEREAS, the three departments cooperate and coordinate as much as practical when enforcing these areas of overlap; and

WHEREAS, there are some minor conflicts in the regulations that lead to confusion for the personnel enforcing the ordinances and for the public; and

WHEREAS, in order to eliminate these conflicts, and provide more efficient enforcement and removal of junk or abandoned campers, boats and trailers as well as automobiles, representatives of the Health, Planning, Engineering and Police Department formed a committee to resolve these issues; and

WHEREAS, the Committee proposes the amended language as shown in Exhibit No. 1 to Section 301 Definitions, of the Codified Ordinances of the City of Hamilton.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hamilton, Ohio:

SECTION I: That Section 301, Definitions, of the Codified Ordinances of the City of Hamilton, Ohio, is hereby amended and supplemented to read as set forth in the document attached hereto as Exhibit No.1 and incorporated herein by reference.

SECTION II: That Section 301.20 Motor Vehicle of Chapter 301 Definitions, of the Codified Ordinances of the City of Hamilton is hereby repealed.

SECTION III: That Section 301 of the Codified Ordinances of the City of Hamilton, Ohio, as it existed prior to this amendment **be and the same is hereby repealed.**

SECTION IV: This ordinance shall take effect and be in full force from and after the earliest period allowed by law after its passage.

PASSED: \_\_\_\_\_

\_\_\_\_\_  
Mayor

Effective Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
City Clerk

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk of the City of Hamilton, Ohio, State of Ohio, hereby certify that the foregoing Ordinance No. \_\_\_\_\_ was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in the lobby of City Hall for a period of ten days. POSTED: \_\_\_\_\_.

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk  
CITY OF HAMILTON, OHIO**

Ordinance No. \_\_\_\_\_ (Cont'd)

**EXHIBIT NO. 1**

**PART THREE – TRAFFIC CODE**

**TITLE ONE – ADMINISTRATION**

**CHAPTER 301 – Definitions**

**301.51 VEHICLE.**

Every device, including but not limited to automobiles, trucks, semi tractors, buses, watercraft, trailers, mobile homes, recreational vehicles, farm machinery, construction equipment, and other motorized vehicles, in, upon or by which any person or property may be transported or drawn upon a street or highway except that "vehicle" does not include any motorized wheelchair, any electric personal assistive mobility device, or any device, , that is moved by human power.

**301.301 RECREATIONAL VEHICLE.**

Any vehicle or structure including but not limited to camper trailers, fifth wheel campers, truck campers and self-propelled motor homes constructed in such a manner as to permit occupancy thereof as sleeping quarters or the conduct of any business, trade or occupation or use as a selling or advertising device, or use for storage or conveyance for tools, equipment or machinery, and so designed that it is or may be mounted on wheels and used as a conveyance on highways and streets, propelled or drawn by its own or other motor power.

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING AND SUPPLEMENTING PART THREE – TRAFFIC CODE, CHAPTER 351 PARKING GENERALLY, SECTION 351.03 AND SUBSECTION (A) PROHIBITED STANDING OR PARKING PLACES, SECTION 351.03.1 PROHIBITED IDLING AND PARKING OF CERTAIN TRUCKS AND BUSES AND ALL SEMI TRAILERS AND SEMI TRACTORS IN A RESIDENCE DISTRICT; EXCEPTIONS, SECTION 351.17 NO PARKING OF VEHICLES IN YARDS, AND SECTION 351.99(a)(3) PENALTY, OF THE CODIFIED ORDINANCES OF THE CITY OF HAMILTON, OHIO.**

WHEREAS, Automobiles, boats, campers, trailers and other vehicles that are inoperable, illegally stored, or illegally parked on private property fall under the purview of three different ordinances that are enforced by three different departments of the City Administration: the Police, Health and Planning Departments; and

WHEREAS, the three departments cooperate and coordinate as much as practical when enforcing these areas of overlap; and

WHEREAS, there are some minor conflicts in the regulations that lead to confusion for the personnel enforcing the ordinances and for the public; and

WHEREAS, in order to eliminate these conflicts, and provide more consistent and efficient enforcement and removal of junk or abandoned campers, boats and trailers as well as automobiles, representatives of the Health, Planning, Engineering and Police Department formed a committee to resolve these issues, and

WHEREAS, the Committee proposes the amended language as shown in Exhibit No. 1 to Chapter 351 Parking Generally, of the Codified Ordinances of the City of Hamilton.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hamilton, Ohio:

SECTION I: That Chapter 351 Parking Generally, of the Codified Ordinances of the City of Hamilton, Ohio, is hereby amended and supplemented to read as set forth in the document attached hereto as Exhibit No.1 and incorporated herein by reference.

SECTION III: That Chapter 351 of the Codified Ordinances of the City of Hamilton, Ohio, as it existed prior to this amendment **be and the same is hereby repealed.**

SECTION IV: This ordinance shall take effect and be in full force from and after the earliest period allowed by law after its passage.

PASSED: \_\_\_\_\_

\_\_\_\_\_  
Mayor

Effective Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_

City Clerk

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk of the City of Hamilton, Ohio, State of Ohio, hereby certify that the foregoing Ordinance No. \_\_\_\_\_ was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in the lobby of City Hall for a period of ten days. POSTED: \_\_\_\_\_.

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk  
CITY OF HAMILTON, OHIO**

**EXHIBIT NO. 1**

**PART THREE – TRAFFIC CODE**

**TITLE SEVEN – PARKING**

**CHAPTER 351 – Parking Generally**

**351.03 PROHIBITED STANDING OR PARKING PLACES.**

No person shall idle or park a vehicle in any of the following places, except when necessary to avoid conflict with other traffic, to comply with provisions of this Traffic Code, while obeying the directions of a police officer or a traffic control device, or in case of an emergency:

- (a) On a sidewalk, curb or street lawn area, except a bicycle, and except when all of the following circumstances are met:
- 1) on streets that are less than thirty (30) feet wide from edge of pavement to edge of pavement;
  - 2) when the front and rear tires of either the driver side or passenger side of the vehicle are parked parallel to the roadway;
  - 3) on a paved surface or concrete pad situated within the street lawn area which does not exceed one third of the residential lot frontage;
  - 4) a minimum of four (4) feet of sidewalk remains available;
  - 5) and the other remaining wheels are on the roadway.

**351.03.1 PROHIBITED IDLING AND PARKING OF CERTAIN TRUCKS AND BUSES AND ALL SEMI TRAILERS AND SEMI TRACTORS IN A RESIDENCE DISTRICT; EXCEPTIONS.**

Except as provided in this section, no person shall idle or park any bus, including a school bus, nor any truck with a certified gross vehicle weight or registered weight, whichever is greater, for the specific truck of more than ten thousand (10,000) pounds, nor any semitrailer or semi-tractor, on any street, alley or in any yard area (front, back or side) or on any driveway or on any private property in any residence district within the City. As to buses, this prohibition is effective regardless of whether such bus or school bus is actually used for, or is currently being used for, the transportation of persons for compensation.

- (a) This provision does not apply to a truck, bus, semitrailer, semi-tractor when idling, or parking:
- (1) Due to an emergency, or
  - (2) For the loading or unloading of passengers, or
  - (3) For the loading or unloading of cargo, or
  - (4) As directed by a police officer, or
  - (5) If such vehicle is owned or operated by the Municipality while the operator of such vehicle is carrying out official duties.
- (b) This prohibition does not apply to school buses, as defined in Section 301.35 herein, between the hours of 8:00 a.m. to 5:00 p.m. on weekdays.

**351.17 NO PARKING OF VEHICLES IN YARDS.**

No person, operator, or owner of a vehicle, motor vehicle, motorcycle, motorized bicycle, commercial tractor, bus, trailer, camper, recreational vehicle, boat or semi-trailer shall park the same or permit the same to be parked between a building or structure and the public right-of-way of the abutting street or alley unless the same is parked on a driveway which is surfaced with an asphaltic, concrete, cement binder, and drained per the Director of Engineering's approval.

In addition to any other penalty permitted by law, the penalty for violation of this provision shall be as set forth in Section 351.99(a)(3).

Ordinance No. \_\_\_\_\_ (Cont'd)

**351.99(a)(3) PENALTY.**

(3) Effective April 10, 1995, every person who violates Section 351.03.1, 351.03(u), 351.13, 351.131, 351.15, 351.14, 351.17 and 353.071 shall be fined fifty dollars (\$50.00) if paid before midnight of the day on which a citation is issued for such violation. If the fine is paid after midnight of the date of violation but within twenty-four (24) hours of the violation, the fine shall be seventy-five dollars (\$75.00). If the fine is paid after twenty-four (24) hours from the time of the violation, the fine shall be one hundred dollars (\$100.00).

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING AND SUPPLEMENTING PART THREE – TRAFFIC CODE, CHAPTER 355 JUNK AND ABANDONED VEHICLES, SECTIONS 355.01 – 355.05, OF THE CODIFIED ORDINANCES OF THE CITY OF HAMILTON, OHIO.**

WHEREAS, Automobiles, boats, campers, trailers and other vehicles that are inoperable, illegally stored, or illegally parked on private property fall under the purview of three different ordinances that are enforced by three different departments of the City Administration: the Police, Health and Planning Departments; and

WHEREAS, the three departments cooperate and coordinate as much as practical when enforcing these areas of overlap; and

WHEREAS, there are some minor conflicts in the regulations that lead to confusion for the personnel enforcing the ordinances and for the public; and

WHEREAS, in order to eliminate these conflicts, and provide more consistent and efficient enforcement and removal of junk or abandoned campers, boats and trailers as well as automobiles, representatives of the Health, Planning, Engineering and Police Department formed a committee to resolve these issues, and

WHEREAS, the Committee proposes the amended language as shown in Exhibit No. 1 to Chapter 355 Junk and Abandoned Vehicles, of the Codified Ordinances of the City of Hamilton.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hamilton, Ohio:

SECTION I: That Chapter 355 Junk and Abandoned Vehicles, of the Codified Ordinances of the City of Hamilton, Ohio, is hereby amended and supplemented to read as set forth in the document attached hereto as Exhibit No.1 and incorporated herein by reference.

SECTION III: That Chapter 355 of the Codified Ordinances of the City of Hamilton, Ohio, as it existed prior to this amendment **be and the same is hereby repealed.**

SECTION IV: This ordinance shall take effect and be in full force from and after the earliest period allowed by law after its passage.

PASSED: \_\_\_\_\_

\_\_\_\_\_  
Mayor

Effective Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_

City Clerk

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk of the City of Hamilton, Ohio, State of Ohio, hereby certify that the foregoing Ordinance No. \_\_\_\_\_ was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in the lobby of City Hall for a period of ten days. POSTED: \_\_\_\_\_.

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**

**EXHIBIT NO. 1**

**PART THREE – TRAFFIC CODE**

**TITLE SEVEN – PARKING**

**CHAPTER 355 – Junk and Abandoned Vehicles**

**355.01 DEFINITIONS**

As used in this chapter:

- (a) "Abandoned junk vehicle" means any vehicle meeting all of the following requirements:
- (1) Left on private property for more than four (4) hours without the permission of the person having the right to the possession of the property, on a public street or other property open to the public for purposes of vehicular travel or parking, or upon or within the right of way of any road or highway for seventy-two (72) hours or longer;
  - (2) Without a current license displayed on the vehicle.
  - (3) Apparently inoperable due to mechanical malfunction or extensive damage; such damage including but not limited to any of the following: missing wheels, tires, motor or transmission; (Ord. 7904. Passed 10-9-74.)
- (b) "Property" means any real property within the City which is not a street or highway.

**355.02 WILLFULLY ABANDONING A VEHICLE.**

(a) (1) No person shall willfully leave a vehicle or "abandoned junk vehicle" on private property for more than seventy-two (72) hours without permission of the person having the right to the possession of the property, or on a public street or other property open to the public for purposes of vehicular travel or parking, or upon or within the right of way of any road or highway for seventy-two (72) hours or longer without notification to the Chief of Police of the reasons for leaving the vehicle in such place. Said vehicle must have a valid license, and registration and be in legally road operable condition.

(2) For the purposes of this section, the fact that a vehicle has been so left without permission or notification is prima-facie evidence of abandonment.

(b) Whoever violates this section is guilty of a minor misdemeanor, and shall also be assessed any costs incurred by the Municipality in disposing of such junk vehicle, less any money accruing to the Municipality from such disposal.

**355.03 VEHICLE LEFT ON PRIVATE PROPERTY.**

The Chief of Police, upon complaint of any person adversely affected, may order into storage any vehicle, other than an abandoned junk vehicle which has been left on private property for more than four (4) hours without the permission of the person having the right to the possession of the property. The place of storage shall be designated by the Chief of Police.

The owner of the vehicle may reclaim it upon payment of any expenses or charges incurred in its removal and storage, and presentation of proof of ownership, which may be evidenced by a certificate of title to the vehicle. If the vehicle remains unclaimed by the owner for thirty days, the procedures established by Sections 355.05 et seq. shall apply.

**355.04 JUNK VEHICLE; ORDER TO REMOVE.**

For the purposes of this section "junk vehicle" means any vehicle meeting the requirements of Section 355.01(a)(2 and 3) to (5) that is left in the open on private property for more than seventy-two (72) hours with the permission of the person having the right to the possession of the property, except if the person is operating an approved junk yard or scrap metal processing facility licensed under authority of Ohio R.C. 4737.05 to 4737.12; or regulated under authority of the City; or if the property on which the vehicle is left is not subject to licensure or regulation by any governmental authority, unless the person having the right to the possession of the property can establish that the vehicle is part of a bona fide commercial operation.

The Chief of Police may send notice by certified mail with return receipt requested to the person having the right to the possession of the property on which a junk vehicle is left, that within seventy-two hours of receipt of the notice, the junk vehicle shall be housed in a garage or other suitable structure or shall be removed from the property. Parking, storing, leaving, or permitting the parking or storing of any junk vehicle, non-operating vehicle, or vehicle parts, whether attended or not attended, in a carport, under a car cover, or behind a fence, for a period in excess of seventy-two (72) hours upon any private property within the City is a violation of this ordinance.

No person shall willfully leave a junk vehicle in the open for more than seventy-two (72) hours after receipt of a notice as provided in this section. The fact that a junk vehicle is so left is prima-facie evidence of willful failure to comply with the notice, and each subsequent period of than seventy-two (72) hours that a junk vehicle continues to be left constitutes a separate offense.

**355.05 VEHICLE LEFT ON PUBLIC PROPERTY.**

The Chief of Police may order into storage any vehicle other than an abandoned junk vehicle which has been left on a public street or other property open to the public for purposes of vehicular travel, or upon or within the right of way of any road or highway, for twenty-four (24) hours or longer without notification to the Chief of the reasons for leaving the vehicle in such place. The Chief shall designate the place of storage of any vehicle ordered removed by him.

The Chief of Police shall immediately cause a search to be made of the records of the Bureau of Motor Vehicles to ascertain the owner and any lienholder of a vehicle ordered into storage by the Chief, and if known, shall send notice to the owner or lienholder at his last known address by certified mail with return receipt requested, that the vehicle will be declared a nuisance and disposed of if not claimed within ten days of the date of mailing of the notice. The owner or lienholder of the vehicle may reclaim it upon payment of any expenses or charges incurred in its removal and storage, and presentation of proof of ownership, which may be evidenced by a certificate of title to the vehicle.

If the owner or lienholder makes no claim to the vehicle within ten (10) days of the date of mailing of the notice, the Chief of Police shall dispose of such vehicle in the manner provided in the third paragraph of Ohio R.C. 4513.61 and Section 355.06. Provided, however, any vehicle meeting the requirements of Section 355.01(a)(3) to (45) which has remained unclaimed by the owner or lienholder for a period of ten (10) days or longer following notification as provided in this section may be disposed of as provided in Section 355.07.

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING AND SUPPLEMENTING PART SEVENTEEN - HEALTH CODE, CHAPTER 1735 LITTERING, SECTION 1735.18 MAINTAINING PRIVATE PROPERTY FREE OF LITTER, SECTION 1735.20 EFFECT OF NONCOMPLIANCE; CITY MAY REMOVE VIOLATION, AND SECTION 1735.22 JUNK MOTOR VEHICLES ON PRIVATE PROPERTY WITH PERMISSION OF OWNER; NOTICE OF REMOVAL AND IMPOUNDING, OF THE CODIFIED ORDINANCES OF THE CITY OF HAMILTON, OHIO.**

WHEREAS, Automobiles, boats, campers, trailers and other vehicles that are inoperable, illegally stored, or illegally parked on private property fall under the purview of three different ordinances that are enforced by three different departments of the City Administration: the Police, Health and Planning Departments; and

WHEREAS, the three departments cooperate and coordinate as much as practical when enforcing these areas of overlap; and

WHEREAS, there are some minor conflicts in the regulations that lead to confusion for the personnel enforcing the ordinances and for the public; and

WHEREAS, in order to eliminate these conflicts, and provide more consistent and efficient enforcement and removal of junk or abandoned campers, boats and trailers as well as automobiles, representatives of the Health, Planning, Engineering and Police Department formed a committee to resolve these issues, and

WHEREAS, the Committee proposes the amended language as shown in Exhibit No. 1 to Chapter 1735 Littering, of the Codified Ordinances of the City of Hamilton.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hamilton, Ohio:

SECTION I: That Chapter 1735 Littering, of the Codified Ordinances of the City of Hamilton, Ohio, is hereby amended and supplemented to read as set forth in the document attached hereto as Exhibit No.1 and incorporated herein by reference.

SECTION III: That Chapter 1735 Sections 1735.18, 1735.20, and 1735.22 of the Codified Ordinances of the City of Hamilton, Ohio, as it existed prior to this amendment **be and the same is hereby repealed.**

SECTION IV: This ordinance shall take effect and be in full force from and after the earliest period allowed by law after its passage.

PASSED: \_\_\_\_\_

\_\_\_\_\_  
Mayor

Effective Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_

City Clerk

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk of the City of Hamilton, Ohio, State of Ohio, hereby certify that the foregoing Ordinance No. \_\_\_\_\_ was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in the lobby of City Hall for a period of ten days. POSTED: \_\_\_\_\_.

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk  
CITY OF HAMILTON, OHIO**

**EXHIBIT NO. 1**

**PART SEVENTEEN – HEALTH CODE**

**TITLE THREE – GENERAL STANDARDS**

**CHAPTER 1735 – Littering**

**1735.18: MAINTAINING PRIVATE PROPERTY FREE OF LITTER.**

- (a) The owner, operator, or occupant of any private property shall at all times maintain the property free of litter. All litter shall be stored in authorized private containers for collection.
- (b) Unused lumber and abandoned, unused or inoperative vehicles, auto parts, washers, dryers, refrigerators, and other such appliances, equipment and like items shall be stored in an enclosed structure upon all private property.
- (c) The storage of such items listed in this section must comply with all health, zoning, fire, and building codes, and such other regulations, orders, ordinances, or statutes as may apply.

**1735.20 EFFECT OF NONCOMPLIANCE; CITY MAY REMOVE VIOLATION.**

- (a) Upon receiving a notice of violation regarding a junk, inoperable, unlicensed or abandoned vehicle the owner, operator, or occupant of the property is required to abate the condition within seventy-two (72) hours from receipt of the notice of violation.
- (b) Whenever a notice or order to remove a violation has not been complied with, the Commissioner of Health may proceed to cause the violation to be removed after the Commissioner of Health has documented sufficient proof to support such determination of non-compliance.
  - (1) The owner, operator, or occupant of the property shall then be notified of such finding by the Commissioner of Health in the manner described in Section 1735.19.
  - (2) The Commissioner of Health shall not commence their abatement for a vehicle until seventy-two (72) hours for all other violations after the subsequent notification required by Section 1735.20(b)(1).

**1735.22 JUNK VEHICLES ON PRIVATE PROPERTY WITH PERMISSION OF OWNER; NOTICE OF REMOVAL AND IMPOUNDING.**

- (a) It shall be a violation of this chapter to accumulate and store junk vehicles, non-operating vehicles or vehicle parts, on private property, which vehicles are in the nature of refuse and unsightly debris.
- (b) Accumulation and storage of the items in this section constitutes a nuisance detrimental to the health, safety and welfare of the community in that such conditions tend to interfere with the enjoyment of and reduce the value of private property, invite plundering, create fire hazards and other safety and health hazards to minors as well as adults. Further, these conditions interfere with the comfort and well-being of the public and create, extend, and aggravate urban blight. Accordingly, the public health, safety, and general welfare require that such conditions be regulated, abated and prohibited.
- (c) **Definitions.** For the purposes of this section:

(1) "Vehicle" means every device, including but not limited to automobiles, trucks, semi tractors, buses, watercraft, trailers, mobile homes, recreational vehicles, farm machinery, construction equipment, and other motorized vehicles, in, upon or by which any person or property may be transported or drawn upon a street or highway, except that "vehicle" does not include any motorized wheelchair, any electric personal assistive mobility device, or any device, that is moved by human power.

(2) "Recreational Vehicle" means any vehicle or structure including but not limited to camper trailers, fifth wheel campers, truck campers and self-propelled motor homes constructed in such a manner as to permit occupancy thereof as sleeping quarters or the conduct of any business, trade or occupation or use as a selling or advertising device, or use for storage or conveyance for tools, equipment or machinery, and

**Ordinance No. \_\_\_\_\_ (Cont'd)**

so designed that it is or may be mounted on wheels and used as a conveyance on highways and streets, propelled or drawn by its own or other motor power.

(3) "Junk Vehicle" means any vehicle which:

A. Extensively damaged, with such damage including, but not limited to, any of the following: missing wheels, tires, motor, or transmission;

B. Apparently inoperable;

C. That:

(i) Is left outside of a building, and thus is in the open on private property for more than seventy-two (72) hours; or

(ii) Has been left on private property for more than seventy-two (72) hours without the permission of the person having the right to the possession of the property.

(4) "Left outside of a building" means that the vehicle has not been placed in an enclosed structure or building with at least three (3) sides. Neither a carport, nor a car cover, nor a fence, qualifies an enclosed structure or building with at least three (3) sides.

(5) "Non-operating vehicle" means:

A. Any vehicle not bearing current, valid, state license plates; or

B. Any vehicle partly disassembled, incapable of satisfying state standards of safe current, valid, state license plates or not. Any vehicle not moved within thirty days shall be presumed to be incapable of moving under its own power.

(6) "Property" means any real property within the City, which is not a street or highway.

(7) "Vehicle Part" means any portion or part of a vehicle.

**(d) Storage on Private Property.**

(1) No person shall park, store, leave, or permit the parking or storing of any junk vehicle, non-operating vehicle, or vehicle parts, whether attended or not, for a period in excess of seventy-two (72) hours upon any private property within the City, unless the same is completely enclosed within a building, having three (3) or more sides, or unless it is in connection with a business enterprise operated in a lawful place and manner and licensed as such, when necessary to the operation of such business enterprise.

(2) Therefore, Parking, storing, leaving, or permitting the parking or storing of any junk vehicle, non-operating vehicle, or vehicle parts, whether attended or not attended, in a carport, under a car cover, or behind a fence, for a period in excess of seventy-two (72) hours upon any private property within the City is a violation of this section and this chapter.

**(e) Removal Required.**

(1) The accumulation and storage of one (1) or more such junk vehicles, non-operating vehicles, or vehicle parts in violation of the provisions of this section shall constitute refuse and unsightly debris and shall constitute a nuisance, detrimental to the health, safety and general welfare of the inhabitants of the City.

(2) The owner, operator, or occupant of the property upon which such nuisance is located otherwise shall remove the nuisance to a place of lawful storage, or shall have the junk vehicle, non-operating vehicle, or vehicle part housed within a building where it will not be visible from the street or alley.

(3) Notwithstanding any provisions to the contrary contained in Chapter 1767, regulation, enforcement, notice, and abatement shall be pursuant to this section.

**(f) Notice to Remove.**

(1) Whenever there are reasonable grounds to believe that a violation of the provisions of this section exists, the Commissioner of Health shall give, or cause to be given, notice to the registered owner of any junk vehicle, non-operating vehicle, or vehicle part, which is in violation of this section.

Ordinance No. \_\_\_\_\_ (Cont'd)

- (2) The Commissioner of Health shall give, or cause to be given, written notice to the registered owner of any junk vehicle, non-operating vehicle, or vehicle part which is in violation of this section; or the Commissioner of Health shall give, or cause to be given written notice to the owner, operator, or occupant of the property upon which such junk vehicle, non-operating vehicle, or vehicle part is located; or the Commissioner of Health shall give, or cause to be given, written notice to both the registered owner of the junk vehicle, non-operating vehicle, or vehicle part and the owner, operator, or the occupant of such property.
- (3) Written notice shall be by United States certified mail with return receipt, commercial carrier service, or by personal service, and shall state that such junk vehicle, non-operating vehicle, or vehicle part violates the provisions of this section and that within seventy-two (72) hours, the junk vehicle, non-operating vehicle, or vehicle part is to be removed to a place of lawful storage or to be housed in a building where it will not be visible from the street or alley.

**(g) Removal by the City.**

- (1) In addition to, and not in lieu of any other procedure or penalty prescribed in this section or in the Traffic Code for removal of abandoned vehicles from private property, if the registered owner of any junk vehicle, non-operating vehicle, or vehicle part which is in violation of this section, or the owner, operator, or occupant of the private property upon which the same is located, fails, neglects, or refuses to remove or house such junk vehicle, non-operating vehicle, or vehicle part in accordance with the notice given pursuant to the provisions of subsection (f) hereof, the Commissioner of Health may remove and dispose of such junk vehicle, non-operating vehicle, provisions of this section. No person shall interfere, hinder or refuse to allow them to enter upon private property for such purpose and to remove any junk vehicle, non-operating vehicle, or vehicle part in accordance with the provisions of this section.
- (2) Any person to whom notice was given pursuant to subsection (f) hereof shall have the right to remove or house such vehicle in accordance with such notice at his expense at any time prior to the arrival of the Commissioner of Health or his or her authorized representatives as listed above in (h)(1), for the purpose of removal.

**(i) Penalty for Junk Vehicle Offense.**

- (1) Whoever violates any prohibition contained in this section is guilty of a minor misdemeanor, and in addition to any other penalty authorized by law, shall be assessed any costs incurred by the City in disposing of such junk vehicle, non-operating vehicle or vehicle part, plus administrative costs in the amount of twenty-five (25%) percent of the total costs incurred, and less any money accruing to the City from such disposal.
- (2) Each day such violation exists or is permitted to continue shall constitute a separate offense.

## City Council Meeting Staff Report

**Report To:** The Honorable Mayor Patrick Moeller & Members of the City Council

**Report From:** Timothy Werdmann, Executive Director of Internal Services

**Agenda Item:** An ordinance amending and supplementing Section 753.03 of Chapter 753 of the Codified Ordinances of the City of Hamilton, Ohio regarding License Application Requirements.

<b>Approvals/Reviews</b> <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	<b>Related Strategic Goal(s)</b> <input type="checkbox"/> <b>I</b> Realize new investments <input type="checkbox"/> <b>J</b> Increase gross wages <input type="checkbox"/> <b>P</b> Increase property values <input type="checkbox"/> <b>R</b> Generate recreational investments <input type="checkbox"/> <b>E</b> Engage citizens in activities <input checked="" type="checkbox"/> <b>O</b> General operations
<b>Ordinance or Resolution</b> <i>Emergency Ordinance</i>	<input checked="" type="checkbox"/> 1 <sup>st</sup> Reading Date: 8-12-20 <input checked="" type="checkbox"/> 2 <sup>nd</sup> Reading Date: 8-26-20 <input type="checkbox"/> Resolution Date: <input type="checkbox"/> Public Hearing Date:	
<b>Prior Action/Review</b> <i>Please note if this item was discussed on a prior Council or other agenda</i>	<b>City Council</b> (or other):	
<b>Contract</b>	<input type="checkbox"/> Contract Required	<input checked="" type="checkbox"/> Additional Document(s) Attached
<b>Fiscal Impact</b>	Budgeted: \$ None Expenditure: \$ None Source Funds: N/A	<i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i>

### Policy Issue

Does City Council wish to adopt legislation amending Section 753.03 of Chapter 753 of the Codified Ordinances of the City of Hamilton, Ohio regarding License Application Requirements?

### Policy Alternative(s)

Council may choose not to adopt such legislation amending Section 753.03 of Chapter 753 of the Codified Ordinances of the City of Hamilton, Ohio regarding License Application Requirements. If Council does not adopt such legislation, the license application requirements of this section will continue to include requirements that are not reflective of our current technological capabilities and requirements for producing identification badges for door to door solicitors.



## **Staff Recommendation**

Staff recommends that Council receive this report and adopt the legislation amending Section 753.03 of Chapter 753 of the Codified Ordinances of the City of Hamilton, Ohio regarding License Application Requirements.

## **Statutory/Policy Authority**

- Section 3.09, Legislative Procedure, of the Charter of the City of Hamilton.
- Codified Ordinance Section 753.03 License Application Requirements.

## **Fiscal Impact Summary**

There is no fiscal impact associated with passing this ordinance.

## **Background Information**

Section 753.03 of the Hamilton Codified Ordinances currently requires that applicants for solicitor's licenses provide a recent photograph that is approximately three by three (3x3). The purpose of this is to allow for the production of an identification badge for solicitors. However, our current equipment for producing badges is digital in nature, so we are having applicants appear in person for pictures to be taken. Requiring an applicant to provide us with a digital photo will streamline our identification badge production and reduce risks to security and employee health and safety by doing away with the need for multiple applicants to appear in person. Given our current equipment and technology, it is appropriate to update and amend this section.

## **Attached Information**

- Redline of proposed changes to Codified Ordinance Section 753.03 License Application Requirements.

## **Copies Provided to:**

N/A



### 753.03 LICENSE APPLICATION REQUIREMENTS.

(a) Applications for licenses for peddlers, solicitors, itinerant vendors, or transient dealers shall be filed with the Director of Finance on a form to be furnished by the Director which shall require at least, the following information:

- (1) Name of applicant;
- (2) Home address and telephone number of applicant;
- (3) Name and address of the person by whom employed;
- (4) Length of service with such employer;
- (5) All places of residence and all employment during the preceding year;
- (6) The nature and character of the goods to be sold or service to be furnished by the applicant;  
and
- (7) Names of all other towns in which the applicant has within the past year conducted a business for which a license is herein required.

(b) The applicant shall furnish a recent photograph of himself not more than one year old and ***said photograph shall be in a digital electronic format designated by the Director of Finance*** ~~approximately three inches by three inches in size~~. The application shall be made at least ten days before the license is required.

(c) If the Director of Finance determines after an investigation, that the applicant proposes to engage in a lawful, commercial or professional enterprise and does not, based upon past record, constitute a clear and present danger to the residents of the City he shall issue a license to the applicant.

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING AND SUPPLEMENTING SECTION 753.03 OF CHAPTER 753 OF THE CODIFIED ORDINANCES OF THE CITY OF HAMILTON, OHIO REGARDING LICENSE APPLICATION REQUIREMENTS.**

WHEREAS, Section 753.03 of the codified ordinances currently requires that applicants for solicitor's licenses provide a recent photograph that is approximately 3 inches x 3inches to allow for the production of City issued identification badges; and

WHEREAS, current equipment used by the City for producing identification badges is digital in nature; and

WHEREAS, requiring an applicant to provide the municipality with a digital photo will streamline identification badge production and reduce risks to security and employee health and safety by doing away with the need for multiple applicants to appear in person;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hamilton, Ohio:

SECTION I: That Section 753.03 in Chapter 753 of the Codified Ordinances of the City of Hamilton, Ohio, is hereby amended and supplemented to read as set forth in the document attached hereto as Exhibit No.1 and incorporated herein by reference.

SECTION II: That Section 753.03 of the Codified Ordinances of the City of Hamilton, Ohio, as it existed prior to this amendment **be and the same is hereby repealed.**

SECTION III: This ordinance shall take effect and be in full force from and after the earliest period allowed by law after its passage.

PASSED: \_\_\_\_\_

\_\_\_\_\_  
Mayor

Effective Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_

City Clerk

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk of the City of Hamilton, Butler County, Ohio, hereby certify that the foregoing Ordinance No. \_\_\_\_\_ was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in the lobby of City Hall for a period of ten days. POSTED: \_\_\_\_\_

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**

Ordinance No. \_\_\_\_\_ (cont'd)

**EXHIBIT NO. 1**

**PART SEVEN – BUSINESS REGULATION CODE**

**CHAPTER 753 – Peddlers, Solicitors, Itinerant Vendors and Canvassers**

**Sec. 753.03 – License application requirements.**

(a) Applications for licenses for peddlers, solicitors, itinerant vendors, or transient dealers shall be filed with the Director of Finance on a form to be furnished by the Director which shall require at least, the following information:

- (1) Name of applicant;
- (2) Home address and telephone number of applicant;
- (3) Name and address of the person by whom employed;
- (4) Length of service with such employer;
- (5) All places of residence and all employment during the preceding year;
- (6) The nature and character of the goods to be sold or service to be furnished by the applicant; and
- (7) Names of all other towns in which the applicant has within the past year conducted a business for which a license is herein required.

(b) The applicant shall furnish a recent photograph of himself not more than one year old and said photograph shall be in a digital electronic format designated by the Director of Finance. The application shall be made at least ten days before the license is required.

(c) If the Director of Finance determines after an investigation, that the applicant proposes to engage in a lawful, commercial or professional enterprise and does not, based upon past record, constitute a clear and present danger to the residents of the City he shall issue a license to the applicant.

## City Council Meeting Staff Report

**Report To:** The Honorable Mayor Patrick Moeller & Members of the City Council

**Report From:** Mark Mercer, Chief of Fire

**Agenda Item:** An ordinance amending the Codified Ordinances of the City of Hamilton, Ohio, Part Fifteen, Fire Prevention Code, relative to adding Section 1505.03 General Prohibition on Outdoor Burning and Refuse Burning.

<p><b>Approvals/Reviews</b> <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i></p>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	<p><b>Related Strategic Goal(s)</b></p> <input type="checkbox"/> <b>I</b> Realize new investments <input type="checkbox"/> <b>J</b> Increase gross wages <input type="checkbox"/> <b>P</b> Increase property values <input type="checkbox"/> <b>R</b> Generate recreational investments <input type="checkbox"/> <b>E</b> Engage citizens in activities <input checked="" type="checkbox"/> <b>O</b> General operations
<p><b>Ordinance or Resolution</b> <i>Ordinance</i></p>	<input checked="" type="checkbox"/> 1 <sup>st</sup> Reading Date: 8-12-2020 <input checked="" type="checkbox"/> 2 <sup>nd</sup> Reading Date: 8-26-2020 <input type="checkbox"/> Resolution Date: <input type="checkbox"/> Public Hearing Date:	
<p><b>Prior Action/Review</b> <i>Please note if this item was discussed on a prior Council or other agenda</i></p>	<p><b>City Council (or other):</b> City Council Meeting 7-22-2020          Ordinance Review Commission Meeting 6-17-2020</p>	
<p><b>Contract</b></p>	<input type="checkbox"/> Contract Required	<input checked="" type="checkbox"/> Additional Document(s) Attached
<p><b>Fiscal Impact</b></p>	<p>Budgeted: \$0</p>	<p><i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i></p>
	<p>Expenditure: \$0</p>	
	<p>Source Funds:</p>	

**Policy Issue**

Does City Council wish to adopt legislation amending the Codified Ordinances of the City of Hamilton, Ohio, Part Fifteen, Fire Prevention Code, relative to adding Section 1505.03 General Prohibition on Outdoor Burning and Refuse Burning?

**Policy Alternative(s)**

Council may choose not to adopt such legislation amending the Codified Ordinances of the City of Hamilton, Ohio, Part Fifteen, Fire Prevention Code, relative to adding Section 1505.03 General Prohibition on Outdoor Burning and Refuse Burning. Alternatively, Council may choose to lessen the restrictions as proposed in the legislation by allowing residents to burn more than what is currently listed.



### **Staff Recommendation**

Staff recommends that Council receive this report and adopt the legislation amending the Codified Ordinances of the City of Hamilton, Ohio, Part Fifteen, Fire Prevention Code, relative to adding Section 1505.03 General Prohibition on Outdoor Burning and Refuse Burning because The City routinely receives calls regarding questions on whether it is permissible to have recreational fires on their properties. This new section of the Fire Code will provide the residents with more clarity regarding this issue.

### **Statutory/Policy Authority**

- Section 3.09, Legislative Procedure, of the Charter of the City of Hamilton.
- State of Ohio Fire Code

### **Fiscal Impact Summary**

There is no fiscal impact associated with this proposal if enacted.

### **Background Information**

At the June 17, 2020 Regular Meeting of the Ordinance Review Commission, Fire Chief Mark Mercer presented a new Section, 1505.03 General Prohibition on Outdoor Burning and Refuse Burning, to the Fire Prevention Code of the Codified Ordinances. The City routinely receives calls regarding questions on whether it is permissible to have recreational fires on their properties. This new section of the Fire Prevention Code will provide the residents with more clarity regarding this issue. Additionally, this new section outlines and defines which refuse which cannot be burned. This includes items such as plastics, oils, and other items besides clean wood. The proposed section will provide guidance at the local level of what the City finds acceptable or unacceptable in terms of outdoor burning and no longer solely relies on the State of Ohio Fire Code for such matters. The Ordinance Review Commission approved of this addition to the Codified Ordinances.

### **Attached Information**

- Proposed Section 1505.03 General Prohibition on Outdoor Burning and Refuse Burning.

### **Copies Provided to:**

N/A



### **1505.03 General Prohibition on Outdoor Burning and Refuse Burning**

(a) Definitions.

For the purpose of this Section, the following terms shall have the following meanings, unless another definition is provided or the context otherwise requires:

- (1) “Campfire” means a small outdoor fire intended for recreation or cooking but not including a fire intended for disposal of waste wood or refuse.
- (2) “Clean wood” means natural wood which: has not been painted, varnished, or coated with a similar material; has not been pressure treated with preservatives; and does not contain resins or glues as in plywood or other composite wood products.
- (3) “Construction and demolition waste” means building waste materials, including, but not limited to, waste shingles, insulation, lumber, treated wood, painted wood, wiring, plastics, packaging, and rubble that results from construction, remodeling, repair, and demolition operations on a house, commercial or industrial building, or other structure.
- (4) “Nuisance” means burning of any material of any kind exuding smoke which may endanger the public, or safety or health of the public, or to disturb the comfort or repose of any person residing in the vicinity of the open burning, or which causes excessive or noxious odors, or when such open burning emits sparks, embers, or smoke upon adjacent or nearby premises.
- (5) “Open burning” means kindling or maintaining a fire where the products of combustion are emitted directly into the ambient air without passing through a stack or a chimney.
- (6) “Refuse” means any waste material including but not limited to leaves, grass, garbage and other organic refuse, construction and demolition waste materials, automobiles or parts thereof, flammable, toxic or explosive materials, electrical wiring, rubber products and plastic products.

(b) Open burning, outdoor burning and refuse burning is prohibited in the City of Hamilton unless the burning is specifically permitted by Paragraph (d) of this Section.

(c) The following materials may not be burned:

- (1) Rubbish and/or garbage including, but not limited to, food waste, food wrappers, packaging, animal carcasses, paint or painted materials, furniture, composite shingles, construction or demolition debris or other household or business wastes.
- (2) Waste oil or other oily wastes.
- (3) Asphalt and products containing asphalt.
- (4) Treated or painted wood including, but not limited to, plywood, composite wood products or other wood products that are painted, varnished or treated with preservatives.

- (5) Any plastic material including, but not limited to, nylon, PVC, ABS, polystyrene or urethane foam, synthetic fabrics, plastic films and plastic containers.
  - (6) Rubber, including tires and synthetic rubber-like products.
  - (7) Newspaper, corrugated cardboard, container board, office paper and other materials that may be recycled.
- (d) Outdoor campfires and small bonfires for cooking, ceremonies or recreation are allowed provided that the fire is confined by a control device or structure such as a barrel, fire ring, or fire pit and subject to the following limitations:
- (1) Flames must be limited in size to 3 feet in diameter and 2 feet in height.
  - (2) Open burning including camp fires under this Paragraph (d) shall only be conducted at a location at least twenty-five (25) feet from the nearest building which is not on the same property and at a minimum fifteen (15) feet of any building or property line which is on the same property.
  - (3) Open burning shall be constantly attended and supervised by a competent person at least eighteen (18) years of age until the fire is extinguished and is cold. The person shall have readily available for use such fire extinguishing equipment as may be necessary for the total control of the fire.
- (e) Liability: A person utilizing or maintaining an outdoor fire shall be responsible for all fire suppression costs and any other costs and liability resulting from damage caused by the fire.
- (f) Right of entry and inspection.
- (1) The Fire Chief or any authorized officer, agent, employee or representative of the City of Hamilton may inspect any property for the purpose of ascertaining compliance with the provisions of this Section.
    - A. Note: If the owner or occupant of the premises denies access to the property for this purpose, the fire code official must first obtain a proper inspection warrant or other remedy provided by law to secure entry, an owner, the owner's authorized agent or occupant or person having charge, care or control of the building or premises shall not fail or neglect, after proper request is made as herein provided, to permit entry therein by the fire code official for the purpose of inspection and examination pursuant to this code. Obtained in accordance with Chapter 1301:7-7 of the Ohio Revised Code.
- (g) Enforcement and penalties.
- (1) The City of Hamilton Fire Division shall have the authority to cause any fire to be extinguished if it is determined that there is a danger to public safety, a danger to public or private property, a nuisance or sign of environmental harm or violation of regulations.
  - (2) The Fire Chief and any fire inspector are authorized to enforce the provisions of this Section

- (3) Whoever violates any provision of this Section shall be guilty of an unclassified misdemeanor and the penalty for violation of any portion of this Section shall be a forfeiture of not more than two hundred fifty dollars per day for each separate violation of the rules in this Section for open burning of residential waste and not more than one thousand dollars per day for each separate violation of the rules in this Section for open burning of all wastes that are not residential waste. A separate violation is assessed for each day (twenty-four hour period) or portion of a day the violation occurs, plus the cost of prosecution.

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING THE CODIFIED ORDINANCES OF THE CITY OF HAMILTON, OHIO, PART 15, FIRE PREVENTION CODE, RELATIVE TO ADDING SECTION 1505.03 GENERAL PROHIBITION ON OUTDOOR BURNING AND REFUSE BURNING.**

WHEREAS, in 2008 the Council of the City of Hamilton, Ohio approved adoption of the Ohio Fire Code (OFC), which is based on the International Fire Code, as the City's Fire Code with certain exceptions in order to ensure consistency with National Fire Protection Association standards; and

WHEREAS, currently, Part 15 of the City's Codified Ordinances sets forth fire prevention regulations and penalties for noncompliance with the City's Fire Prevention Code but does not include specific guidelines on outdoor burning and refuse burning; and

WHEREAS, the Administration of Hamilton's Division of Fire now recommends that certain sections of Part 15 be amended to include such guidelines so the residents of Hamilton can better understand the restrictions on the local level instead of only relying on the State of Ohio Fire Code; and

WHEREAS, on June 17, 2020, the Ordinance Review Commission heard and recommended that the proposed new Section 1505.03 be sent to City Council for review and decision;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hamilton, Ohio:

SECTION I: That Section 1505.03 in Chapter 1505 of the Codified Ordinances of the City of Hamilton, Ohio, is hereby amended and supplemented to read as set forth in the document attached hereto as Exhibit No.1 and incorporated herein by reference.

SECTION II: This ordinance shall take effect and be in full force from and after the earliest period allowed by law after its passage.

PASSED: \_\_\_\_\_

\_\_\_\_\_  
Mayor

Effective Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
City Clerk

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk of the City of Hamilton, Butler County, Ohio, hereby certify that the foregoing Ordinance No. \_\_\_\_\_ was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in the lobby of City Hall for a period of ten days. POSTED: \_\_\_\_\_

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**

**EXHIBIT NO. 1**

**PART FIFTEEN - FIRE PREVENTION CODE**

**CHAPTER 1505 – Fire Prevention Code**

**Section 1505.03 General Prohibition on Outdoor Burning and Refuse Burning**

(a) Definitions.

For the purpose of this Section, the following terms shall have the following meanings, unless another definition is provided or the context otherwise requires:

- (1) "Campfire" means a small outdoor fire intended for recreation or cooking but not including a fire intended for disposal of waste wood or refuse.
- (2) "Clean wood" means natural wood which: has not been painted, varnished, or coated with a similar material; has not been pressure treated with preservatives; and does not contain resins or glues as in plywood or other composite wood products.
- (3) "Construction and demolition waste" means building waste materials, including, but not limited to, waste shingles, insulation, lumber, treated wood, painted wood, wiring, plastics, packaging, and rubble that results from construction, remodeling, repair, and demolition operations on a house, commercial or industrial building, or other structure.
- (4) "Nuisance" means burning of any material of any kind exuding smoke which may endanger the public, or safety or health of the public, or to disturb the comfort or repose of any person residing in the vicinity of the open burning, or which causes excessive or noxious odors, or when such open burning emits sparks, embers, or smoke upon adjacent or nearby premises.
- (5) "Open burning" means kindling or maintaining a fire where the products of combustion are emitted directly into the ambient air without passing through a stack or a chimney.
- (6) "Refuse" means any waste material including but not limited to leaves, grass, garbage and other organic refuse, construction and demolition waste materials, automobiles or parts thereof, flammable, toxic or explosive materials, electrical wiring, rubber products and plastic products.

(b) Open burning, outdoor burning and refuse burning is prohibited in the City of Hamilton unless the burning is specifically permitted by Paragraph (d) of this Section.

(c) The following materials may not be burned:

- (1) Rubbish and/or garbage including, but not limited to, food waste, food wrappers, packaging, animal carcasses, paint or painted materials, furniture, composite shingles, construction or demolition debris or other household or business wastes.
- (2) Waste oil or other oily wastes.
- (3) Asphalt and products containing asphalt.
- (4) Treated or painted wood including, but not limited to, plywood, composite wood products or other wood products that are painted, varnished or treated with preservatives.
- (5) Any plastic material including, but not limited to, nylon, PVC, ABS, polystyrene or urethane foam, synthetic fabrics, plastic films and plastic containers.
- (6) Rubber, including tires and synthetic rubber-like products.
- (7) Newspaper, corrugated cardboard, container board, office paper and other materials that may be recycled.

Ordinance No. \_\_\_\_\_ (cont'd)

- (d) Outdoor campfires and small bonfires for cooking, ceremonies or recreation are allowed provided that the fire is confined by a control device or structure such as a barrel, fire ring, or fire pit and subject to the following limitations:
  - (1) Flames must be limited in size to three (3) feet in diameter and two (2) feet in height.
  - (2) Open burning including camp fires under this Paragraph (d) shall only be conducted at a location at least twenty-five (25) feet from the nearest building which is not on the same property and at a minimum fifteen (15) feet of any building or property line which is on the same property.
  - (3) Open burning shall be constantly attended and supervised by a competent person at least eighteen (18) years of age until the fire is extinguished and is cold. The person shall have readily available for use such fire extinguishing equipment as may be necessary for the total control of the fire.
  
- (e) Liability: A person utilizing or maintaining an outdoor fire shall be responsible for all fire suppression costs and any other costs and liability resulting from damage caused by the fire.
  
- (f) Right of entry and inspection.
  - (1) The Fire Chief or any authorized officer, agent, employee or representative of the City of Hamilton may inspect any property for the purpose of ascertaining compliance with the provisions of this Section.
    - A. Note: If the owner or occupant of the premises denies access to the property for this purpose, the fire code official must first obtain a proper inspection warrant or other remedy provided by law to secure entry, an owner, the owner's authorized agent or occupant or person having charge, care or control of the building or premises shall not fail or neglect, after proper request is made as herein provided, to permit entry therein by the fire code official for the purpose of inspection and examination pursuant to this code. Obtained in accordance with Chapter 1301:7-7 of the Ohio Revised Code.
  
- (g) Enforcement and penalties.
  - (1) The City of Hamilton Fire Division shall have the authority to cause any fire to be extinguished if it is determined that there is a danger to public safety, a danger to public or private property, a nuisance or sign of environmental harm or violation of regulations.
  - (2) The Fire Chief and any fire inspector are authorized to enforce the provisions of this Section
  - (3) Whoever violates any provision of this Section shall be guilty of an unclassified misdemeanor and the penalty for violation of any portion of this Section shall be a forfeiture of not more than two hundred fifty dollars per day for each separate violation of the rules in this Section for open burning of residential waste and not more than one thousand dollars per day for each separate violation of the rules in this Section for open burning of all wastes that are not residential waste. A separate violation is assessed for each day (twenty-four hour period) or portion of a day the violation occurs, plus the cost of prosecution.

## City Council Meeting Staff Report

**Report To:** The Honorable Mayor Patrick Moeller & Members of the City Council

**Report From:** Aaron Hufford, Chief of Staff

**Agenda Item:** An ordinance authorizing and directing the City Manager to execute a sale and development agreement, property conveyances, and related actions with Main Street Hamilton Apartments, LLC relating to 320 Main Street, Hamilton, Ohio.

<b>Approvals/Reviews</b> <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	<b>Related Strategic Goal(s)</b> <input checked="" type="checkbox"/> <b>I</b> Realize new investments <input type="checkbox"/> <b>J</b> Increase gross wages <input checked="" type="checkbox"/> <b>P</b> Increase property values <input type="checkbox"/> <b>R</b> Generate recreational investments <input type="checkbox"/> <b>E</b> Engage citizens in activities <input checked="" type="checkbox"/> <b>O</b> General operations
<b>Ordinance or Resolution</b> <i>Ordinance</i>	<input checked="" type="checkbox"/> 1 <sup>st</sup> Reading Date: 8-12-20 <input checked="" type="checkbox"/> 2 <sup>nd</sup> Reading Date: 8-26-20 <input type="checkbox"/> Resolution Date: <input type="checkbox"/> Public Hearing Date:	
<b>Prior Action/Review</b> <i>Please note if this item was discussed on a prior Council or other agenda</i>	<b>City Council (or other):</b>	
<b>Contract</b>	<input checked="" type="checkbox"/> Contract Required	<input checked="" type="checkbox"/> Additional Document(s) Attached
<b>Fiscal Impact</b>	Budgeted: \$ Expenditure: \$ Source Funds: General Funds	<i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i>

### Policy Issue

Does City Council wish to adopt legislation to authorize and direct the sale of property to Main Street Hamilton Apartments, LLC to construct approximately fifty (50) market rate residential apartment units?

### Policy Alternative(s)

Council may choose not to adopt such legislation to authorize and direct the sale of property to Main Street Hamilton Apartments, LLC to construct approximately fifty (50) market rate residential apartment units located on Main St. Council could instead choose to hold the property.

### Staff Recommendation

Staff recommends that Council receive this report and adopt the legislation authorize and direct the sale of property to Main Street Hamilton Apartments, LLC to construct approximately fifty (50) market rate residential apartment units located on Main St.



## **Statutory/Policy Authority**

- Section 3.09, Legislative Procedure, of the Charter of the City of Hamilton.
- Section 175.10, Disposition of Property, Codified Ordinances of the City of Hamilton, Ohio

## **Fiscal Impact Summary**

Main Street Hamilton Apartments will purchase the property located at 531 High St for One Hundred and 00/100 Dollars (\$100.00). Additionally, the City of Hamilton will provide an incentive of \$75,000.00. This is elaborated upon in greater detail in the sale and development agreement.

## **Background Information**

The City of Hamilton has owned both parcels since they were acquired in 2017. The CIC owns three (3) adjacent properties that, when combined with the City's parcels, will create the site for the development. The site is approximately 0.7 acres total.

The City was approached by the developer who was interested in constructing approximately fifty (50) market rate apartments on the site. The developer has seen the success of similar products like the Mercantile Lofts, Marcum Apartments, The Davis apartments, and Third + Dayton, and wishes to develop a similar product that will be an asset to the Main Street district.

The project shall be completed at Developer's sole cost and expense: a) in conformance with all applicable codes, ordinances, and laws; b) in a good workmanlike manner; and c) in conformance with the plans and specification approved in advance by appropriate City officials. The developer shall commence construction of the project within twelve (12) months after the date of closing, and shall substantially complete the project within eighteen (18) months after commencing construction.

City staff believes that the addition of high-quality apartments on Main Street will attract residents and help support current and future businesses in the area.

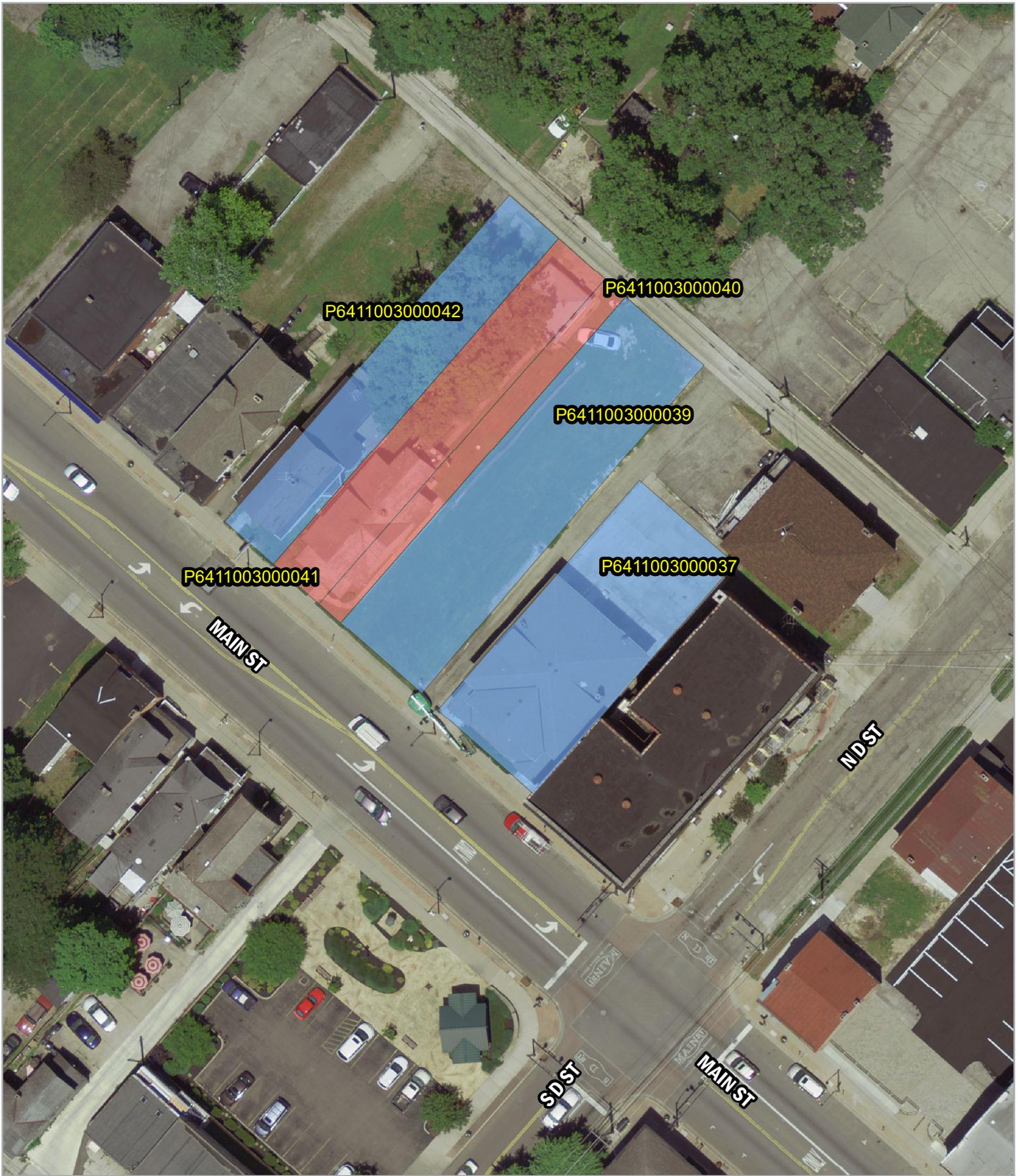
## **Attached Information**

- Map of the Project Area including CIC Owned Land

## **Copies Provided to:**

N/A





- CIC Parcels
- COH Parcels

### CIC and City Parcels (Main St. at D St.)



ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO EXECUTE A SALE AND DEVELOPMENT AGREEMENT, PROPERTY CONVEYANCES, AND RELATED ACTIONS WITH MAIN STREET HAMILTON APARTMENTS, LLC RELATING TO 320 MAIN STREET.**

WHEREAS, the City owns and desires to facilitate the development of two (2) parcels identified as Butler County Auditor's Parcel Identification Number P6411003000040 and P6411003000041 (the "Property") as seen in Exhibit No. 1; and

WHEREAS, Main Street Hamilton Apartments, LLC desires to purchase the Property to construct a residential project consisting of approximately fifty (50) market rate residential apartment units and an improved parking area(the "Project"); and

WHEREAS, Section 173.07 of the Codified Ordinances of the City of Hamilton, Ohio sets for the provisions for the sale, lease or trade of real property by the City; and

WHEREAS, this Council, on behalf of the City, desires to enter into a Sale and Development Agreement (the "Agreement") in order to reflect certain agreements between the parties with respect to the Project generally, and to the improvements to be made by each of them and other agreements, all pursuant and subject to the terms and conditions contained in the Sale and Development Agreement; and

WHEREAS, included in the terms and conditions of the Agreement, the City will sell the Property to Main Street Hamilton Apartments, LLC for the sum of One Hundred and 00/100 Dollars (\$100.00);

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hamilton, Ohio:

SECTION I: That the City Manager is hereby authorized and directed to execute a Sale and Development Agreement with Main Street Hamilton Apartments, LLC. Said agreement shall be and read substantially in the form of Exhibit No. 2, attached hereto, incorporated herein by reference and made a part thereof subject to any amendments recommended by the City Manager or by the Director of Law.

SECTION II: This ordinance shall take effect and be in full force from and after the earliest period allowed by law after its passage.

PASSED: \_\_\_\_\_

\_\_\_\_\_  
Mayor

Effective Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_

City Clerk

**CERTIFICATE**

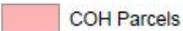
I, Nicholas Garuckas, City Clerk of the City of Hamilton, Ohio, State of Ohio, hereby certify that the foregoing Ordinance No. \_\_\_\_\_ was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in the lobby of City Hall for a period of ten days. POSTED: \_\_\_\_\_.

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**

Ordinance No. \_\_\_\_\_ (Cont'd)

**EXHIBIT NO. 1**



  **Exhibit No. 1** 

Date: 8/4/2020 The information contained in this map is a public resource for general information and is provided for use only as a graphical representation. The City of Hamilton makes no warranty to the accuracy, currency, or completeness of the information contained herein and assumes no liability for any errors. Any reliance on this information is the exclusive risk of the user. **1 inch = 63 feet**

**DEVELOPMENT AGREEMENT**

THIS **DEVELOPMENT AGREEMENT** (“Agreement”) is made and entered into effective as of the \_\_\_ day of \_\_\_\_\_, 2020 (the “Effective Date”), by and between THE CITY OF HAMILTON, OHIO, an Ohio municipal corporation, having a mailing address at 345 High Street, Hamilton, Ohio 45011 (the “City”) and MAIN STREET HAMILTON APARTMENTS, LLC, an Ohio limited liability company, and or assigns, having a mailing address of 10925 Reed Hartman Highway, Suite 200, Cincinnati, Ohio 45242 (“Developer”), under the following circumstances:

**RECITALS:**

A. The City owns or will own prior to Closing (as hereinafter defined) land located within the City of Hamilton, Butler County, Ohio, as approximately shown on **Exhibit A**, and legally described on **Exhibit B**, both attached hereto and incorporated herein by reference (the “City Property”).

B. The City desires to have the City Property developed as a residential project consisting of approximately fifty (50) market rate residential apartment units and an improved parking area containing approximately 75 parking spaces, some of which may be spaces located on adjacent property (collectively, such apartment and parking improvements hereinafter referred to as the “Project”). The City Property is located in a Qualified Opportunity Zone as created by the 2017 Tax Cuts and Jobs Act. The City believes that the Project and related improvements as described herein are in the vital and best interests of the City and the health, safety, and welfare of its residents, and in accordance with the public purposes and provisions of applicable federal, state, and local laws and requirements, which purposes include, but are not limited to, furtherance of the City’s goals to revitalize the part of the City’s downtown area in which the City Property is located, to provide public access, parking and other amenities, and to facilitate commercial and residential development in close proximity to the City’s downtown area, all of which are expected to enhance City tax revenues.

C. Developer is willing to acquire the City Property and to develop, construct and operate the Project pursuant and subject to the terms and conditions contained in this Agreement.

D. The parties desire to enter into this Agreement in order to reflect certain agreements between them with respect to the Project generally, and to the improvements to be made by each of them, available City incentives relative to certain components of the Project, and other agreements and obligations, all pursuant and subject to the terms and conditions contained herein.

**NOW, THEREFORE**, for and in consideration of the mutual agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by both parties hereto, the City and Developer agree as follows:

**Introduction; Recitals.** Each of the parties hereby acknowledges and agrees that the statements made by it in the foregoing recitals are, to its actual knowledge and belief, true and accurate and the same are hereby included herein by this reference as if fully set forth in this Introduction section of the Agreement.

1. **Transfer of City Property.** Within ninety (90) days after the earlier to occur of (i) the satisfaction or waiver of the “Developer Contingencies” (as hereinafter defined) or (ii) the “Contingency Deadline” (as hereinafter defined), but subject to the terms and conditions contained in this Agreement, the City shall transfer to Developer fee simple title to the City Property by Quit-Claim Deed (the “Deed”), subject only to: real estate taxes and assessments (general and special) not yet due and payable; easements of record as of the date of this Agreement or as otherwise agreed upon by the parties prior to the Contingency Deadline; the “City’s Reserved Utility Easements” (as hereinafter defined) over the Alley Property (as hereinafter defined); and the other items to be created in accordance with the terms hereof (collectively, all such items hereinafter being referred to as the “Permitted Exceptions”). Nothing contained herein shall be deemed to be a waiver by the Developer of the right to terminate this Agreement prior to the Contingency Deadline due its determination that the City Property is unacceptable to Developer for the Project for any reason. The following terms and conditions shall apply to such transfer of the City Property and the closing of such transfer (the “Closing”):

(a) The purchase price (the “Purchase Price”) to be paid by Developer and accepted by the City for the City Property shall be One Hundred Dollars (\$100.00).

(b) At the Closing, the City shall deliver to Developer exclusive possession of the City Property, subject to Permitted Exceptions. The Closing, which shall take place at the offices of the City’s attorneys on an exact date and time (subject to the first paragraph of this Section 1) to be selected by Developer with at least five (5) business days advance written notice to City.

(c) At the Closing, the City will deliver the Affidavit of Title and Non-Foreign Certificate in the form of Exhibit C attached hereto, which Title Affidavit Developer represents that its title insurance company (the “Title Company”) has approved.

(d) In addition to the Deed and the Title Affidavit, the parties agree to execute and deliver at Closing such other mutually agreeable instruments as are reasonably necessary to complete the Closing, and which are typical for commercial real estate transfers and as otherwise required by this Agreement.

(e) Real estate taxes, assessments (general or special) on the City Property will be prorated between the City and Developer to the date of Closing based upon the most recent tax bill for the City Property that is available from Butler County prior to Closing. All proration shall be final, except in the event of an error in

calculations. All delinquent real estate taxes on the City Property shall be paid by the City on or before the Closing.

(f) Developer shall pay all Closing costs and expenses, including costs of the title or escrow closing agent and costs of any title insurance policy and title policy endorsements desired by Developer.

2. **Construction of Project.** Developer shall construct and install upon the City Property acquired by the Developer, the Project. The Project, including but not limited to the engineering and design therefor, the plans and specifications, and the construction and installation, shall be completed at Developer's sole cost and expense: (a) in conformance with all applicable codes, ordinances, and laws; (b) in a good and workmanlike manner; and (c) in conformance with the plans and specifications approved in writing in advance by appropriate City officials (hereinafter, the "Approved Plans"). Subject to delay caused by Force Majeure, Developer shall commence construction of the Project within twelve (12) months after the date of Closing, and shall substantially complete such construction within eighteen (18) months after commencing construction (the "Completion Date"). Developer shall prepare and submit to appropriate government agencies all applications for such approvals as are required to develop and construct the Project in accordance with applicable laws, rules, regulations, codes and ordinances and the parameters for the Project set forth in this Section 2. References in this Agreement to the "Project" shall be deemed to mean and include the following:

(a) Approximately fifty (50) market rate residential apartment units (the "Units"); provided, however, the parties acknowledging that the final number of Units may be increased or decreased based upon applicable zoning approvals for the Project and market studies and surveys undertaken by the Developer, as further described in this Agreement.

(b) Between 35-75 parking spaces, provided the determination of the required number of parking spaces within such range for the Project to be successful shall be determined by Developer in Developer's sole discretion.

(c) City and Developer acknowledge that during the process of Developer's construction and installation of the Project improvements, damage may occur to the existing sidewalks, streetscape improvements (trees, pavers, etc.), and electrical supply lines providing power to the pole lights, all of which improvements are currently around the perimeter of the City Property, and sub-surface conditions of the City Property may require excavation, removal and replacement of non-compactible materials and the parties therefore agree as follows:

(i) Developer will give City adequate written notice of the commencement date for construction so that the City and Developer can coordinate removal of those pole lights that City wishes to salvage for later reinstallation and to have the electric supply lines to each pole light stubbed off for later reuse, which work shall be contracted and paid for by the Developer, but the City shall be responsible for storing the light poles and fixtures it desires to re-install and return the same to the Property when they are to be re-installed;

(ii) Developer shall cause its contractors to use all reasonable efforts to minimize damage to the existing sidewalks and streetscape improvements;

(iii) Developer, at its sole cost and expense shall: (x) demolish those existing improvements on the City Property that need to be removed in order to complete the project, (y) remove all of the demolition debris and non-compactable material from the City Property, and (z) excavate and replace non-compactable materials from the City Property during its site work; and

(iv) As part of the final phases of construction, upon a mutually-agreeable schedule and in compliance with the Approved Plans, the Developer, with the City's cooperation and coordination, will repair any damage to, or re-run, the electric supply lines for the pole lights and will reconnect the electric lines to the surrounding pole lights, and Developer will repair and replace the sidewalks to a condition and quality substantially comparable as the same and surrounding public sidewalks currently exists. The parties shall pay the costs and expenses of repairing and replacing the sidewalks, electric supply lines, and other streetscape improvements, including pole light relocation or replacement costs, and costs of excavating, removing and replacing non-compactable materials as follows:

(A) City shall pay to Developer \$75,000.00 within ten (10) days after Developer commences site work on the City Property;

(B) Developer shall be responsible for the costs of the above described work in this Section 2(c).

(d) The City and the Developer agree that the plans and specifications for the Project shall, among other things, set forth the interior finishes for the Units and that if the quality of the interior finishes for the Units is at least equal to the quality of the interior furnishes for the units at the next door development, known as the Davis Building, the City shall approve those interior finish plans as part of the Approval Plans.

3. **[This Section intentionally left blank.]**

4. **Post-Closing City Improvements.**

(a) City shall cause the relocation of City-owned overhead utility lines as approximately shown on **Exhibit D** attached hereto and made a part hereof to underground or alternative locations as mutually agreed upon by the City and Developer prior to the Contingency Deadline. The costs of such utility relocations shall be paid solely by the City. The relocation of the utility lines shall progress concurrently with the development and construction of the Project and shall, subject to delays due to Force Majeure, be completed before the Developer is prepared to commence leasing residential units in the Project, in accordance with a specific schedule to be agreed upon City and the Developer prior to the Contingency Deadline.

## 5. **Indemnification and Insurance.**

(a) Notwithstanding anything in this Agreement to the contrary, as a material inducement to the City to enter into this Agreement, Developer shall defend, indemnify and hold the City, its officers, council members, employees, and agents (collectively, the "Indemnified Parties") harmless from and against any and all actions, suits, claims, losses, costs (including without limitation attorney's fees), demands, judgments, liability and damages (collectively, "Claims") suffered or incurred by or asserted against the Indemnified Parties, or any of them, as a result of or arising from injuries, deaths or loss or damage to property to the extent caused by the acts or omissions of Developer, its agents, employees, contractors, subcontractors, licensees, invitees or anyone else acting at the request of Developer in connection with the development or construction of the Project or on or around the City Property; provided, however, that Developer's obligations under this Paragraph shall only apply to Claims that accrue or arise due to events which occur or actions taken during the period from the commencement of inspection or construction related activities on or around the City Property by Developer through Developer's substantial completion of the Project and the issuance of certificates of occupancy for not less than eighty percent (80%) of the total residential units planned to be included in the Project. Developer's obligations under this Paragraph shall survive Closing or the termination of this Agreement. The indemnification obligations of the Developer set forth in this Agreement will survive the Closing or the earlier termination of this Agreement.

(b) Until such time as all construction work associated with the Project has been completed, Developer shall maintain, or cause to be maintained, the following insurance: (i) Commercial General Liability insurance of at least One Million Dollars (\$1,000,000) per occurrence, combined single limit, naming the City as an additional insured, (ii) builder's risk insurance in the amount of one-hundred percent (100%) of the value of the improvements constructed, (iii) worker's compensation insurance in such amount as required by law, and (iv) all insurance as may be required by Developer's construction lenders. Developer's insurance policies shall: (x) be written in standard form by companies of recognized responsibility and credit reasonably acceptable to the City, authorized to do business in Ohio, and having an A.M. Best rating of A VII or better, and (y) provide that they may not be canceled or modified without at least thirty (30) days prior written notice to the City. Developer may cause any or all of the above described insurance requirements to be satisfied by requiring one or more of its contractors to provide such insurance coverages.

## 6. **Tax Abatement Agreement.**

The City acknowledges that a critical component of the consideration for Developer entering into this Agreement and developing the City Property as the Project and to perform all of its other obligations under this Agreement, is that all real estate taxes with respect to building improvements for the residential apartments on the Project be abated for fifteen (15) years under Chapter 3735 of the Ohio Revised Code (the "Tax Abatement"). The City shall reasonably cooperate with the Developer in its efforts to obtain and implement the Tax Abatement, including, without limitation, in connection with Developer's obtaining of all necessary State of Ohio and other governmental approvals and in connection with the Community Reinvestment Area Compensation Agreement (the "CRA"), as required under Chapter 3735 of the Ohio Revised Code. The provisions of this Section shall survive the

expiration or earlier termination of this Agreement, provided the City Property is transferred to Developer.

**7. Vacation North D Street Alleys A and B.**

(a) Prior to Closing, City agrees to vacate one-half or all of the real property labeled as "N D St Aly A" and the real property labeled as "N D St Aly B" as shown on **Exhibit E**, attached hereto and incorporated herein by reference (collectively, the "Alley Property"). If the vacation process does not cause title to one-half of the Alley Property to be transferred to the Developer, then the City shall cause one-half of the Alley Property to be transferred to Developer by Quit-Claim Deed at Closing. Prior to the Contingency Deadline, the City and the Developer shall have agreed upon what utility easements, if any, the City will reserve for the existing utilities that are located on the Alley Property (those reserved utility easements being hereinafter referred to as the "City's Reserved Utility Easements"). The Developer acknowledged and agrees that the Developer will accept possession of the Alley Property in "AS-IS, WHERE-IS" condition, subject to the City's Reserved Utility Easements, if any, and thereafter, all references to the "City Property" shall be deemed to include the Alley Property.

(b) City agrees to pay the costs for documentation of the vacation of the Alley Property and the recording fees required, if any, to place title to the Alley Property in the state described above in this Section, and to not require Developer to pay any purchase price for the Alley Property.

(c) City agrees to cooperate with and support Developer's efforts to acquire the remainder of the Alley Property and/or other real property located adjacent to N D St Aly B if and to the extent Developer determines any such real property is required in order for the Project to be developed and used in an economically feasible manner. Such agreement by the City does not include any obligation on the part of the City to pay any monetary consideration for the acquisition of such additional real property.

**8. Tap and Permit Fees.** The City agrees that all water tap fees, and any and all building, road, recreation and other impact fees or similar fees that the City charges for apartment/commercial projects shall not exceed \$10,000.00 for the entire Project.

**9. Additional City Efforts to Support Development.**

(a) The City agrees to provide Developer an ALTA Survey of the City Property (including the Alley Property) within sixty (60) days after the Effective Date at the City's expense. In addition, within thirty (30) days after request by Developer, the City shall pay to Developer the amount of Ten Thousand Dollars (\$10,000.00) to pay for the costs of a Phase I Environmental Site Assessment and a Geotechnical Soil Borings Report for the City Property (including the Alley Property) for the City Property (including the Alley Property), provided Developer has obtained a Phase I Environmental Site Assessment and a Geotechnical Soil Borings Report for the City Property. The City's obligation to pay the Ten Thousand Dollars (\$10,000.00) described herein shall survive any termination of this Agreement.

- (b) The City agrees to permit Developer to discharge storm water from the City Property and the Project into the existing storm water system without and additional detention or retention system being required for the Project.
- (c) Prior to Closing, the City shall cause the City Property and the Alley Property to be consolidated into one (1) tax parcel of record.

10. **Restriction on Other Multi-Family Residential Projects.** As additional support for the Project and the goals and purposes of this Agreement, during the period beginning on the Effective Date and ending on the earlier of (a) the date that is twenty-four (24) months after the commencement of construction of the Project by Developer, or (b) the date this Agreement is terminated, the City agrees not to: (y) sell or transfer any City owned or CORE Fund owned land (whether now owned or subsequently acquired) for the purposes of constructing any new, ground-up, multi-family housing project with more than twelve (12) units within a one eighth (1/8) mile radius of any boundary of the City Property (the "Restricted Area"); or (z) enter into any development agreement or to provide City incentives for any such new, ground-up, multi-family housing project with more than 12 units in the Restricted Area. The City's agreement in this Section 10 shall survive the Closing.

11. **General City Cooperation.** The City acknowledges that, in connection with the development and construction of the Project, from time to time, the Developer will be submitting to various City departments site plans showing proposed locations of buildings, building footprints and other structures and improvements, plans for landscaping, parking lots, paving improvements, and storm water management and utility lines, facilities and systems and applications for necessary approvals and building permits for the same. The City agrees, subject to all normal and applicable department rules, regulations and processes, and to applicable law, all of which apply to all persons who do business with the City, that it will cooperate with Developer and review and approve all applications and submissions for the Project, including, without limitation, any zoning related approvals or actions, in the normal course of business as the same is regularly brought before and handled by the City. In addition, the City shall cooperate with and assist the Developer (at no out-of-pocket expenses to the City) in its efforts with respect to the development, construction and operation of the Project and the efforts by the Developer to satisfy its conditions hereunder, including coordinating and assisting with efforts with the Butler County Port Authority, the City of Hamilton School District, and other third parties and agencies.

12. **[This Section intentionally left blank.]**

13. **Contingencies.**

(a) **Developer Contingencies.** Subject to the provisions of Section 13(b), Developer shall have no obligation to acquire the City Property or to develop and construct the Project unless and until all of the following contingencies (collectively, the "Developer Contingencies") have been satisfied or waived by Developer in writing:

(i) The Developer and the City shall have agreed upon the Approved Plans for the Project, including that Developer shall be satisfied that the Project, as

developed, will contain sufficient space for approximately 50 market rate residential apartment Units (or such number of Units as Developer determines is appropriate and feasible based on its market studies and surveys), and sufficient parking spaces for Developer's tenant's parking needs, also as determined necessary by Developer for the successful development and operation of the Project.

(ii) All necessary building and construction permits and approvals required for the Project and all components thereof shall have been issued with only such conditions as are contemplated in this Agreement or as are otherwise acceptable to the Developer, in its sole discretion, and any applicable appeal or referendum periods for the same shall have expired without any such appeal or referendum having been initiated.

(iii) Developer shall have reviewed and approved the CRA and all binding documents and components of the same affecting the City Property and the Project and all approvals necessary for the CRA (to the extent then available) shall have been obtained with only such conditions as are acceptable to the Developer in its sole discretion.

(iv) The City shall have delivered to Developer a letter from City's Finance Director certifying that the City has sufficient funding available and secured to satisfy its payment and other obligations under this Agreement.

(v) Developer shall be satisfied, in its sole discretion, with the results of Developer's due diligence efforts with respect to the City Property and the Project, including, without limitation, title, survey, utility availability, environmental, geotechnical and marketing studies.

(vi) Developer shall have entered into an agreement or agreements with the Butler County Port Authority, which will allow a sales tax exemption program for the City Project, upon terms and conditions acceptable to the Developer, in its sole discretion, or Developer shall have determined that it shall be able to enter into such an agreement or agreements.

(vii) City shall have completed all of its obligations and agreements under this Agreement to be completed prior to Closing, or Developer shall be satisfied that the same shall be completed on a timely basis for the development and construction of the Project.

(b) **Developer's Right to Terminate.** Unless all of the Developer's Contingencies set forth above in subsections (a)(i) through (vii) are satisfied or waived in writing by the Developer on or before August 31, 2021 (the "Contingency Deadline"), then the Developer shall have the right to terminate this Agreement by written notice given to the City. In addition, if prior to such date the Developer determines that any or all of the Developer's Contingencies will not be satisfied by the above described deadline, the Developer may elect to terminate this Agreement by written notice given to the City prior to such date. Any or all of the Developer Contingencies may be waived by the Developer, but only by a written instrument executed by the Developer; provided, however, that if the Developer does not terminate this Agreement, pursuant to its right above in this paragraph, by the Contingency Deadline, Developer shall be deemed to have satisfied or waived the

Developer Contingencies. Upon any termination of this Agreement by the Developer pursuant to this Section, neither party hereto shall have any further obligations to the other hereunder except for those specifically stated to survive such termination.

(c) **City Contingencies.** Until the Developer notifies the City that the Developer has waived or satisfied all of the Developer Contingencies, the City shall have no obligation to provide funding to Developer, to acquire, transfer or vacate any real property as described in this Agreement, or to unconditionally obligate itself to any obligations to third parties related to the City Property or the Project, except for such agreements and obligations as are expressly required to be performed by the City prior to Closing under this Agreement. Without affecting the City's obligations to perform certain acts prior to Closing, any agreements entered into or approvals granted by the City as contemplated by this Agreement may include a contingency that Developer must satisfy or waive the Developer Contingencies, and that Developer must close on the acquisition of the City Property and commence, proceed with, and complete the development of the Project pursuant to this Agreement; provided, however, and notwithstanding any other provision of this Agreement to the contrary, the City's agreement to provide the ALTA Survey and to pay for the Phase I Environmental Site Assessment and Geotechnical Soil Borings Report shall be binding upon the City and not be conditioned upon waiver of Developer Contingencies or City appropriation of funds. Except as described in the immediately preceding sentence, the obligations of the City hereunder requiring expenditure of funds to perform such obligations are subject to appropriation by City Council of funds necessary to fund those obligations and do not constitute an indebtedness of the City within the provisions and limitations of the laws and the Constitution of the State of Ohio, and neither the Developer nor any other party has the right to have taxes or exercises by the City for the payment or performance of its obligations hereunder. If the City has not appropriated the funds necessary to perform its obligations hereunder on or before September 15, 2020, then Developer may, by giving the City a written notice of termination on or before October 15, 2020, terminate this Agreement, whereupon neither party hereto shall have any further obligations under this Agreement, except for those expressly stated to survive the termination of this Agreement.

Notwithstanding the immediately preceding paragraph, the City agrees, prior to satisfaction or waiver of the Developer Contingencies, to provide Developer with updates as to the result of the efforts to be undertaken by the City pursuant to this Agreement promptly upon each request therefor by Developer and, in the normal course of the City's procedures and business, to work with Developer with respect to plans and specifications and process the same for approval and permitting purposes and to work with the Developer in an attempt to reach the agreements contemplated hereunder.

14. **Approvals of the City.** The City Manager for the City shall have the right to make decisions for the City under this Agreement and to administer this Agreement on a day to day basis on behalf of the City. Any provision of this Agreement requiring the approval of the City, the satisfaction or evidence of satisfaction from the City, certificate or certification by the City, or the opinion of the City, shall be interpreted as requiring such action by the Manager of the City granting, authorizing or expressing such approval, satisfaction, certification or opinion, as the case may be, and Developer shall have the right to rely upon any of the same executed, delivered or provided by the Manager of the City. If, for any reason, the current City Manager is no longer employed as the Manager of the City, or

otherwise is unable to perform the above described functions, the Executive Director of External Services shall succeed to such role and replace the City Manager for all of the above described purposes.

15. **Right of Entry.** Subject to the terms of this Agreement, the Developer, its employees, agents and contractors, shall have the nonexclusive right to enter upon the City Property to complete such investigations of the City Property as Developer seems appropriate. All such activities by Developer shall be conducted at the sole cost and expense of Developer. This right of entry shall terminate on the earlier of: (a) the date this Agreement is terminated; or (b) the Closing.

Developer understands and agrees that all activities on the City Property performed by or on behalf of Developer shall be done in compliance with applicable laws, rules and regulations and shall occur after reasonable prior notice given to the City. All such activities shall be conducted in such a manner that will not harm or damage the City Property. Developer agrees to restore the City Property to its condition prior to any such activities immediately after conducting the same. The City reserves the right to have a representative present while Developer or its employees, agents or contractors are present at the City Property. If Developer desires to do any invasive testing on the City Property, other than soil borings typical for a real estate development such as the Project, Developer shall do so only after notifying the City and obtaining the City's prior written consent thereto, which consent may be withheld or be subject to such terms and conditions imposed by the City in its reasonable discretion. For purposes of clarity, the City shall not have the right to disapprove soil borings to be performed by or on behalf of Developer to the extent such borings are geotechnical in nature and are typically obtained for a real estate development such as the Project. Developer, if requested by the City, will furnish to the City copies of any report received by Developer relating to any inspection of the City Property.

Prior to entering upon the City Property, Developer covenants and agrees that Developer shall have in effect the following insurance coverages:

(a) Workers' Compensation insurance as required by the Ohio Workers' Compensation Act; and

(b) Commercial General Liability coverage with limits of at least One Million and 00/100 (\$1,000,000.00) Dollars per occurrence and Two Million and 00/100 (\$2,000,000.00) Dollars in the aggregate. The policy shall be written to apply to all bodily injury, property damage, personal injury and other covered loss, however occasioned, occurring on or about the City Property. Such policy shall also insure Developer's indemnity obligation to the City hereinafter set forth in this Section. Claims-made policies are not acceptable.

As a condition to any entry on the City Property by Developer, its contractors, subcontractors or materialmen, Developer shall provide the City with acceptable evidence that the required insurance coverage is in place for Developer. The City shall be named as an additional insured on the Commercial General Liability policy specified above. Each policy shall provide that it may not be modified, cancelled or allowed to expire without thirty (30) days prior written notice to the City.

Developer agrees to protect, indemnify, defend and hold the City and its employees and council members harmless from and against any and all claims, liabilities, losses, costs, expenses (including but not limited to reasonable attorneys' fees), damages, injuries or death arising out of or resulting from: (a) any activity of Developer, its employees, agents or contractors on or about the City Property; (b) any damage on or about the City Property caused by or allegedly caused by Developer, its employees, agents or contractors; and/or (c) any mechanic's lien being filed against the City Property as a result of the action or alleged action of Developer, its employees, agents or contractors.

The provisions of this Section shall survive the Closing or any termination of this Agreement.

**16. Restrictions on Use.** Developer agrees for itself, and its successors and assigns and every successor in interest to the City Property or any part thereof, that the Deed (and any future deed by Developer conveying any part of the City Property) shall contain covenants on the part of Developer, its successors and assigns, that Developer and such successors and assigns shall:

(a) Initially construct and operate the Project on the City Property in accordance with the terms of this Agreement as market rate residential apartment units, unless otherwise agreed to in writing by the City; provided however, once the development and construction of the Project is completed in conformance with the requirements of this Agreement and in conformance with the Approved Plans, then Developer may thereafter elect to change the use of the City Property; and

(b) Not discriminate upon the basis of race, color, religion, sex or national origin in the sale, lease, or rental or in the use or occupancy of the City Property and any improvements erected or to be erected thereon, or any part thereof.

It is intended and agreed that the Deed and any future deed by Developer conveying any part of the City Property shall include the aforesaid covenants provided in this Section. To the fullest extent permitted by law and equity, the covenants shall: (a) be binding on Developer, its successors and assigns and any party in possession or occupancy of the City Property or any part of it; and (b) be for the benefit and in favor of and enforceable by the City against Developer, its successors and assigns and any party in possession or occupancy of the City Property or any part thereof. The covenant provided in clause (a) of this Section shall remain in effect until completion of the Project in conformance with the Approved Plans and other requirements of this Agreement and the covenant provided in clause (b) of this Section shall remain in effect without limitation as to time; provided, however, both of these covenants shall be binding on Developer, or any successor or assign, only for such period as it shall have title to, or an interest in, or possession or occupancy of, the City Property or any part thereof. Further, the covenants set forth in this Section: (a) shall not be personal covenants between the City and Developer; (b) shall be covenants that run with the land and shall be binding on Developer, its successors and assigns, and any future owner or lessee of the City Property or any part of it; (c) shall be covenants that are enforceable by the City, its successors and assigns; and (d) shall be memorialized in the Deed for the City Property. The provisions of this Section shall survive the Closing. Upon

completion of the construction of the Project as required hereunder and upon request by Developer, the City shall execute and deliver a recordable instrument reflecting such accomplishment and the satisfaction of the covenant set forth in Section 16(a).

**17. Limited Representations and Warranties by City; AS-IS Sale; Disclaimers.**

(a) The City represents and warrants as of the date of delivery of this Agreement that:

(i) The City is a valid municipal corporation and political subdivision of the State of Ohio duly organized and validly existing under the Constitution and laws of the State of Ohio and its Charter.

(ii) The City is not in violation or in conflict with any provisions of the laws of the State of the United States of America applicable to the City which would impair its ability to carry out its obligations contained in this Agreement.

(iii) This Agreement has been duly executed and delivered by the City, and, assuming the due authorization, execution and delivery by Developer, constitutes the legal, valid and binding obligation of the City, enforceable against the City in accordance with its terms, except as such enforceability may be limited by (x) bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereafter in effect, relating to or limiting creditors' rights generally and (y) general principles of equity (whether considered in an action in equity or at law).

(iv) There is no litigation pending nor to the knowledge of the individual signing this Agreement on behalf of the City threatened against or by the City wherein any unfavorable ruling or decision would materially and adversely affect the City's ability to carry out its obligations under this Agreement.

(b) It is understood and agreed that the City is not making and has not at any time made any warranties or representations of any kind or character, express or implied, with respect to the condition of the City Property, including, but not limited to, any warranties or representations as to habitability, merchantability or fitness for a particular purpose.

(c) Developer acknowledges and agrees that upon the Closing, the City shall sell and convey to Developer and Developer shall accept the City Property "AS IS, WHERE IS, WITH ALL FAULTS", subject only to the City's obligations set forth in this Agreement.

Developer represents to the City that Developer has conducted, or will conduct prior to the Closing, such investigations of the City Property, including but not limited to, its environmental condition as Developer deems necessary or desirable to satisfy itself as to the condition of the City Property and the existence or nonexistence or curative action to be taken with respect to the City Property or any hazardous or toxic substance on or discharged from the City Property. Developer will rely solely upon its investigations.

Developer acknowledges and agrees that the City makes no representation or warranty to Developer as to the accuracy or completeness of third party prepared environmental audits or other studies or reports. Upon the Closing, Developer shall assume the risk that adverse matters arising or existing on or before the Closing, including but not limited to, defects and adverse environmental conditions, may not have been revealed by Developer's investigations. Notwithstanding the foregoing or any other provisions of this Agreement to the contrary, Developer shall have the right to terminate this Agreement prior to or on the Contingency Deadline if Developer is not satisfied with the environmental conditions of the City Property or the projected costs to Developer required to remove hazardous materials in order to develop and use the Project as intended.

The provisions of this Section shall survive the Closing or any termination of this Agreement.

**18. Post-Closing Construction and Operation.** As an inducement for the City to enter into this Agreement, Developer covenants and agrees that:

(a) the Project, including but not limited to the engineering and design therefor and the plans and specifications and its construction, shall be completed: (i) at Developer's sole cost and expense, subject, however, to the payments and items to be provided by the City pursuant to the terms of this Agreement; (ii) in conformance with the Approved Plans and all applicable codes, ordinances, laws, rules and regulations; (iii) in a prompt, diligent, lien-free, good and workmanlike manner; and (iv) in conformance with this Agreement;

(b) Developer shall complete the Project no later than the Completion Date, subject to Force Majeure events;

(c) at all times following the Closing, Developer will keep the City Property neat, clean, mowed and free from accumulation of weeds and debris; and

(d) promptly, diligently and completely perform all of the duties and obligations of Developer under this Agreement.

Developer, at its sole cost and expense, shall prepare and submit to appropriate government agencies all applications for such approvals as are required to develop and construct the Project in accordance with this Agreement and all applicable laws, rules, regulations, codes and ordinances.

Developer acknowledges and agrees that: (a) the development of the City Property is of utmost importance to the City; (b) the construction of the Project on the City Property in accordance with the terms of this Agreement is of utmost importance to the City; (c) the post-Closing obligations of Developer set forth in this Agreement are a material consideration for the City to sell the City Property to Developer for the Purchase Price; and (d) absent Developer's covenant to perform its post-Closing obligations set forth in this Agreement, the City would not have sold the City Property to Developer for the Purchase Price.

The covenants set forth in this Section: (a) shall not be personal covenants between the City and Developer; (b) shall be covenants that shall run with the land and shall be binding on Developer, its successors and assigns, and any future owner or lessee of the City Property or any part of it; and (c) shall be covenants that are enforceable by the City.

19. **Insurance.** For any time that construction work associated with the Project is in progress in accordance with the terms of this Agreement, Developer shall maintain the insurance provided for on **Exhibit F** attached hereto. Developer shall provide evidence of such insurance to the City on or before the Closing and thereafter upon request.

20. **Developer's Default.** In the event of a breach or a default by Developer under the terms of this Agreement or any other agreement signed in connection with it which Developer fails to cure within thirty (30) days after having been given a written notice of the breach or default from the City, or in the event the default or breach does not involve the payment of money, and cannot be cured within said thirty (30) days, then the cure thereof may be made within such longer period of time as may be reasonable under the circumstances and Developer shall not be deemed to be in default of this Agreement provided the cure is promptly commenced within such thirty (30) day period and diligently pursued to completion thereafter. In the event such default or breach is not remedied in the time periods and in the manner provided in this paragraph, then, the City may take such actions as may be necessary or desirable in its opinion to cure and remedy such default or breach, including, but not limited to, proceedings to compel specific performance or injunctive action. All remedies for the City shall be non-exclusive to all other remedies allowed at law or in equity, or as otherwise provided in this Agreement; provided however, in no event shall Developer be liable for special, consequential or punitive damages.

In order to induce the City to sell the City Property to Developer for the Purchase Price, Developer covenants and agrees to fully perform all of its duties and obligations under this Agreement and any other agreement signed in connection with it. In the event Developer fails to substantially complete the construction of the Project on or before the Completion Date for any reason other than due to Force Majeure events, then, in addition to other remedies that the City may have at law or in equity for such default, upon demand by the City, the Developer shall at Developer's election either (i) transfer title to the City Property back to the City or its designee by quit-claim deed, subject only to such title matters as were in effect immediately upon conclusion of the Closing, or (ii) pay to the City an amount equal to the fair market value of the unimproved City Property. If the City exercises the above described right, and the Developer elects reverter instead of payment of fair market value, then Developer shall be required to cause any mortgages, liens or other financing related encumbrances to be released upon the transfer of the City Property to the City. The fair market value of the Property shall be determined by the average appraised fair market values determined by one appraiser selected by the Developer and one appraiser selected by the City, except that if the determinations of such two (2) appraisers differ by more than ten percent (10%) each such appraiser shall select a third appraiser, who's determination of the fair market value of the unimproved City Property shall be conclusive and binding. Each party shall be responsible for the fees and costs of the appraiser selected by it and one-half (1/2) of the fees and costs of the third appraiser, if utilized. All such appraisers shall be MAI appraisers and have a least five (5) years experience in appraising land for residential apartment projects in the southwest Ohio area.

The obligation of Developer to re-convey the City Property to the City or to pay the fair market value of the City Property to the City as provided for in the preceding paragraph shall survive the Closing and shall be reflected in the Deed from the City or in a separate instrument; provided, however, and notwithstanding any other provision of this Agreement to the contrary, the City shall agree to subordinate the above-described re-conveyance right if necessary for Developer to close the construction loan for the Project.

21. **City's Default.** In the event of any default or breach of any of the terms or agreements of the City contained herein, the City shall, upon written notice from the Developer, proceed to cure or remedy such default or breach within thirty (30) days after receipt of such notice, or in the event the default or breach does not involve the payment of money and cannot be cured within said thirty (30) days, then cure may be made within such longer period of time as may be reasonable under the circumstances and the City shall not be deemed in default of this Agreement provided the cure is promptly commenced within the original thirty (30) day period and diligently pursued to completion thereafter. In the event the default is not remedied in the time periods and manner provided in this paragraph, then the Developer may take such actions as may be necessary or desirable in its opinion to cure and remedy such default or breach, including, but not limited to, proceedings to compel specific performance or injunction action. All remedies for the Developer shall be non-exclusive to all other remedies allowed at law, in equity or as otherwise provided in this Agreement.

22. **Estoppel Certificate.** Each party hereto agrees that, within fifteen (15) days after receipt of written request from the other party, it will issue to such requesting party, or its prospective mortgagee or successors, an estoppel certificate stating, to the best of such party's knowledge, as of such date:

(a) whether it knows of any default under this Agreement by the requesting party, and if there are any known defaults, specifying the nature thereof;

(b) whether this Agreement has been assigned, modified or amended in any way by it and if so, then stating the nature thereof;

(c) whether this Agreement is in full force and effect; and

(d) any other reasonable matters relating to the transactions described in this Agreement.

23. **Termination of Agreement.** Upon the completion of the Project and the performance by both parties hereto of all other obligations of the City and the Developer hereunder, or in the event of termination of this Agreement as a matter of right pursuant to any of its terms, the parties agree to execute, in recordable form if requested by either party, a statement confirming termination of this Agreement.

24. **Easements, Covenants and Restrictions.** Prior to the Contingency Deadline, City and the Developer shall reach agreement on the form and content of such easements, covenants and restrictions as the parties determine to be necessary in order to effectuate their

respective obligations described in this Agreement, including, without limitation, any easements determined by Developer to be necessary for off-site parking; provided, however, all costs associated with obtaining the off-street parking rights and designing and constructing the off-street parking improvements shall be paid by the Developer.

**25. Representations, Warranties and Covenants of Developer.** Developer makes the following representations, warranties and covenants, effective as of the Effective Date and also as of the date of the Closing, to induce the City to enter into this Agreement:

(a) Developer is a limited liability company duly organized and validly existing under the laws of the State of Ohio, has properly filed all certificates and reports required to be filed by it under the laws of the State of Ohio, and is not in violation of any laws of the State of Ohio relevant to the transactions contemplated by this Agreement.

(b) Developer has full power and authority to execute and deliver this Agreement and to carry out the transactions provided for herein. This Agreement has, by proper action, been duly authorized, executed and delivered by Developer and all actions necessary have been taken to constitute this Agreement, when executed and delivered, valid and binding obligations of Developer.

(c) The execution, delivery and performance by Developer of this Agreement and the consummation of the transactions contemplated hereby will not violate the organizational documents of Developer, or any mortgage, indenture, contract, agreement or other undertaking to which Developer is a party or which purports to be binding upon Developer or upon any of its assets, nor is Developer in violation or default of any of the foregoing.

(d) There are no actions, suits, proceedings or governmental investigations pending, or to the knowledge of Developer, threatened against or affecting Developer, at law or in equity or before or by any governmental authority.

(e) Until the construction of the Project is substantially completed, Developer shall give prompt notice in writing to the City of the occurrence or existence of any litigation, labor dispute or governmental proceeding or investigation affecting Developer that could reasonably be expected to interfere substantially with its normal operations or materially and adversely affect its financial condition and of any notice of default to Developer from any of its lenders.

**26. Temporary Signage and Sales Trailer.** City hereby grants to Developer the right, effective during the period this Agreement is in effect, to locate a temporary Sales Trailer and to erect a sign or signs on the City Property, subject to applicable laws and codes, notifying the public that the Project is “coming soon” and any related information regarding the Project, the parties involved, and any lender providing financing, which shall be in form and final content approved by both parties, such approval not to be unreasonably withheld, delayed or conditioned.

27. **Miscellaneous.**

(a) **Severability.** If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, but this Agreement shall be construed as if such invalid, illegal or unenforceable provisions had not been contained herein.

(b) **Waiver.** The failure of either party to insist, in any one or more instances, upon a strict performance of any of the terms and conditions of this Agreement, or to exercise or fail to exercise any option or right contained herein, shall not be construed as a waiver or a relinquishment for the future of such right or option, but the same shall continue and remain in full force and effect. The continued performance by either party of this Agreement with knowledge of the breach of any term or condition hereof shall not be deemed a waiver of such breach, and no waiver by either party of any provision hereof, shall be deemed to have been made, or operate as estoppel, unless expressed in writing and signed by such party.

(c) **Notices.** All notices herein authorized or required to be given to the City or the Developer shall be sent certified or registered mail, return receipt requested or by overnight courier service, postage prepaid, or by hand delivery as follows:

If to the City:

City of Hamilton  
Attn: City Manager  
345 High Street  
Hamilton, Ohio 45011

With a copy to:

Letitia S. Block, Esq.  
Law Director  
City of Hamilton  
345 High Street  
Hamilton, OH 45011

If to Developer:

CMC Properties  
Attn: James Cohen  
10925 Reed Hartman Highway, Suite 200  
Cincinnati, Ohio 45242

With a copy to:

Griffin Fletcher & Herndon LLP  
3500 Red Bank Road  
Cincinnati, Ohio 45227  
Attn: Richard D. Herndon, Esq.

or to such other address as either party may from time to time designate in accordance with this Section.

Such notice, if delivered personally or by overnight courier service, shall be deemed given and delivered at the time of delivery or refusal of delivery; or, if sent by certified mail, shall be deemed given and delivered two (2) business days after the time of mailing with appropriate postage attached thereto. A person receiving a notice which does not comply with the technical requirements for notice under this Section may elect to waive any deficiency and treat the notice as having been properly given.

(d) **Entire Agreement.** This Agreement, together with the Exhibits attached to it, set forth the complete understanding and agreement of the parties with respect to the transaction that is the subject of this Agreement. No oral statements, representations or agreements other than this Agreement shall have any force or effect and the City and the Developer agree that they will not rely on any representations or agreements other than those contained in this Agreement.

(e) **Further Assurances.** Either party, upon the request of the other party, shall execute and deliver such further documents and instruments as such other party may reasonably deem appropriate to carry out the terms and conditions of this Agreement, provided that such further documents and instruments are consistent with the terms and conditions of this Agreement.

(f) **Survival.** All agreements, representations, warranties and indemnifications hereunder shall be considered to have been relied upon and shall survive the execution, delivery, completion of performance, expiration, and earlier termination of this Agreement.

(g) **Headings.** The headings in this Agreement are for the purposes of reference only and shall not affect or define the meanings hereof.

(h) **Exhibits.** The Exhibits attached hereto are a part of this Agreement.

(i) **Applicable Law.** This Agreement shall be construed and interpreted in accordance with the laws of the State of Ohio. All claims, counterclaims, disputes and other matters in question between the City, its employees, contractors, subcontractors and agents, and the Developer, its employees, contractors, subcontractors and agents arising out of or relating to this Agreement or its breach will be decided in a court of competent jurisdiction within Butler County, Ohio.

(j) **Counterparts.** This Agreement may be signed in multiple identical counterparts with the same effect as if the signatures thereof and hereto were upon the same instrument.

(k) **Mechanics Liens.** Neither party shall permit any mechanics' or other liens to be filed against the other party's property as a result of such party's construction activities. If a mechanics' lien shall at any time be so filed, the party performing such work shall, within sixty (60) days after notice of the filing thereof, cause the same to be discharged of record by posting a bond therefor or by such other action as causes the lien to be discharged.

(l) **Binding Effect.** This Agreement shall be binding upon and shall inure to the benefit of and be enforceable by and against the parties and their respective successors and permitted assigns.

(m) **Time.** Time is of the essence with respect to the performance by the parties of their respective obligations under this Agreement for which time is a stated factor.

(n) **No Third Party Beneficiaries.** The parties hereby agree that no third party beneficiary rights are intended to be created by this Agreement.

(o) **No Brokers.** The City and Developer represent to each other that they have not dealt with a real estate broker, salesperson or other person who might claim entitlement to a fee or other compensation as a result of the parties' execution of this Agreement.

(p) **Amendments.** This Agreement may be amended only by a written amendment signed by both parties.

(q) **Official Capacity.** All representations, warranties, covenants, agreements and obligations of the City under this Agreement shall be effective to the extent authorized and permitted by applicable law. None of those representations, warranties, covenants, agreements or obligations shall be deemed to be a representation, warranty, covenant, agreement or obligation of any present or future officer, agent, employee or attorney of the City in other than his or her official capacity.

(r) **Construction of Agreement.** Each of the undersigned parties has cooperated in the drafting and preparation of this Agreement and each has been represented by separate legal counsel during such process. Therefore, in any construction to be made of this Agreement, the same will not be construed against any party hereto on the basis that the party was the drafter.

(s) **Survival of Separate Agreements.** Notwithstanding any other provision of this Agreement to the contrary, nothing contained herein shall supersede, terminate or otherwise affect the respective rights and obligations of the City and Developer under any other agreement hereinafter entered into between the parties.

(t) **Force Majeure.** "Force Majeure" shall mean any act of God, epidemic, pandemic, fire, earthquake, flood, explosion, war, insurrection, riot, mob violence,

sabotage, inability to procure labor, equipment, facilities, materials, or supplies, strikes, lockouts, action of labor unions, condemnation, laws, orders of governmental authorities, litigation involving a party hereto relating to zoning, subdivision or other governmental action or inaction pertaining to Project, or any portion thereof, inability to obtain government permits or approvals, and other similar matters not within the commercially-reasonable control of the party charged with the subject obligation affected by any of the above. Notwithstanding the foregoing to the contrary, lack of funds necessary to perform shall not qualify as a Force Majeure event excusing or delaying performance by either party hereunder, and failure to obtain permits or approvals required from the City shall not qualify as a Force Majeure event for any City obligations under this Agreement.

(u) **Management and Ownership of Project.** Developer acknowledges and agrees that among the City's inducements to enter into this Agreement with Developer was the Developer's reputation as an experienced developer, owner, and manager of residential apartment projects. Therefore, Developer agrees that: (a) the restrictions set forth in this Agreement on Developer's rights to assign, sell, and delegate management of the Project are reasonable and necessary to the success of the Project; (b) except for an assignment by the Developer of its rights under this Agreement prior to Closing to an entity under common control with Developer and formed to own and develop the City Property and the Project, and except for a ground lease and facility lease with the Butler County Port Authority, both of which are specifically permitted, Developer shall not sell or ground lease any of the City Property or allow any change of the ownership of Developer (except as contemplated by this Agreement) or assign its rights or delegate its obligations under this Agreement until the date two (2) years after the later to occur of the date construction of the Project is substantially completed or the date that the last certificate of occupancy has been issued for the Units in the Project; and (c) Developer shall be the property manager and shall not contract out such duties, except to an affiliate of Developer that is owned or controlled by Developer or by one or more of the Developer's owners, for the same period as is set forth in the preceding subpart (b). Notwithstanding anything to the contrary above in this Section, nothing in this Section shall be deemed to prohibit Developer or its principals or their heirs from transferring membership interest in Developer: (i) to any affiliate entity of Developer that is owned or controlled by any of the same principals as own or control Developer, or their heirs on the Effective Date; (ii) for purposes of granting security interests in the same or the City Property for the purpose of obtaining third party financing of the Project or to any transfers by foreclosure, deed in lieu transfers once any of the above described transfers have occurred; or (iii) for estate planning purposes, provided that legal control of Developer and the Project remains in any of the same persons as in effect on the date of this Agreement, or their heirs. The provisions of this Section shall survive the Closing of the expiration or earlier termination of this Agreement.

(v) **"Day"; "Business Day"; Computation of Time.** All references to "days" in this Agreement shall be construed to mean calendar days unless otherwise expressly provided and all references to "business days" shall be construed to mean days other than a Saturday, Sunday or legal holiday of the City of Hamilton, Ohio. In computing any period of time pursuant to this Agreement, the day of the act or event from which the designated period of time begins to run will not be included. The last day of the period so computed will be included, unless it is not a business day, in which event the period runs until the end of the next business day.

(w) **Effective Date.** For purposes of this Agreement, the term “Effective Date” shall be the date the City signs this Agreements, which date shall be set forth on the first paragraph of this Agreement.

(x) **Approval.** Developer confirms to the City that: (i) the Title Company has been provided, without modification, the form of Affidavit of Title and Non-Foreign Certificate (the “Affidavit”) that is attached to this agreement as Exhibit C; and (ii) the Title Company has indicated the Affidavit is satisfactory, and it shall not require the City to execute any affidavit, indemnity, hold harmless or document regarding the City Property or the Alley Property, except for the Affidavit in substantially the form attached hereto as Exhibit C.

\*\*\*\*\*SIGNATURE PAGE FOLLOWS\*\*\*\*\*

EXECUTED on the date first above written.

THE CITY OF HAMILTON, OHIO,  
an Ohio municipal corporation

MAIN STREET HAMILTON  
APARTMENTS LLC,  
an Ohio limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Agreement approved as to form:

\_\_\_\_\_  
\_\_\_\_\_, City Law Director

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EXECUTED on the date first above written.

THE CITY OF HAMILTON, OHIO,  
an Ohio municipal corporation

MAIN STREET HAMILTON  
APARTMENTS LLC,  
an Ohio limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: John Cohen  
Title: Member

Agreement approved as to form:

\_\_\_\_\_  
\_\_\_\_\_, City Law Director

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## EXHIBITS

**Exhibit A** – Plan Showing City Property

**Exhibit B** - Legal Description of City Property

**Exhibit C** – Title Affidavit

**Exhibit D** – Overhead Utility Lines to be Relocated by City

**Exhibit E** – Alleys to be Vacated

**Exhibit F** - Developer Insurance Requirements



## **EXHIBIT B**

### **LEGAL DESCRIPTION**

#### **TRACT I**

East part of Lot No. 1626 as the same is known and designated upon the List of Lots in the First Ward of the City of Hamilton, Butler County, Ohio, fronting forty (40) feet on Main Street and extending back northwardly to an alley, also being bounded on the east by an alley, being the east forty (40) feet of said Lot No. 1626, subject to conditions, easements and restrictions of record.

Parcel Number: P6411-003.000-039

#### **TRACT II**

Parts of inlots numbered 1625 and 1626 as the same are known and designated on the revised list of lots in the First Ward of the City of Hamilton, Butler County, Ohio:

Commencing on the north side of Main Street 26 feet east of the southwest corner of said lot No. 1625; thence east along the south side of Lot No. 1625 and of Lot No. 1626 to the southwest corner of premises formerly owned by Anderson and Anna M. Bourne, being a distance of 34 feet and 8 inches, more or less; thence at right angles north 166 feet to an alley; thence west along said alley 34 feet and 8 inches to a point in the north line of said Lot No. 1625, 26 feet east of the northwest corner thereof; and thence at right angles 166 feet to the place of beginning.

Parcel Number: P6411.003.000.040; P6411.003.000.041

#### **TRACT III**

Situated in the City of Hamilton, County of Butler, and State of Ohio

Entire interest in Part of Lot Number One Thousand Six Hundred Twenty-Five (1625) as said lot is known and designated on the revised list of lots in the First Ward, City of Hamilton, Butler County, Ohio, described as follows:

Commencing at the southward corner of said lot; running eastwardly on Main Street 26 feet thence northwardly at right angle 166 feet to an alley; thence westwardly along said alley to the corner of the lot; thence southwardly 166 feet to the beginning. Subject to conditions and restrictions of record. Prior Instrument Reference: Vol. 1580, Pg 576 of the Butler County, Ohio, Deed Records.

Parcel No. P6411-003-000-042

Property Address: 324 Main Street, Hamilton, OH 45013

**EXHIBIT C**

**Affidavit of Title and Non-Foreign Certificate**

STATE OF OHIO, COUNTY OF BUTLER, SS:

Joshua A. Smith (“Affiant”), City Manager of the City of Hamilton, Ohio (“the City”), an Ohio municipal corporation, being first duly cautioned and sworn deposes and says:

1. That the City is the owner of the real property (“Property”) as described on Exhibit C-1 attached hereto and made a part hereof.

2. That there are no outstanding deeds, mortgage, leases, easements or contracts of sale affecting title to the Property to which the City is a party which are not fully disclosed of record and there are no parties in possession or entitled to possession of the Property other than the City.

3. That no work, labor or material has been furnished or performed on or to the Property pursuant to a contract with the City which has not been or which will not timely be fully and completely paid for by the City; nor has any repair, alteration or improvement been performed on or about the Property pursuant to a contract with the City within the last ninety (90) days for which the right to file a mechanic’s or materialman’s lien exists; nor has any unsatisfied claim for lien or claim for payment been made upon the City for labor or material furnished to the Property.

4. That the City is involved in no court proceedings or disputes with any parties concerning the boundary lines of the Property. Affiant has no knowledge of: (a) any encroachments upon the Property from adjacent properties; nor (b) any encroachments of any improvements located on the Property upon adjoining land.

5. That except as revealed in the public records of Butler County, Ohio, Affiant has no other knowledge of any unsatisfied or unreleased judgments or liens against the City of record nor bankruptcy or court proceedings of any kind against the City which affect the title to the Property.

6. That there are no unpaid real estate taxes or assessments against the Property (except as shown on the current tax duplicate).

7. That the foregoing statements are made for the benefit and purpose of inducing the \_\_\_\_\_ Title Insurance City to issue its title insurance policy or policies upon the Property.

8. Section 1445 of the Internal Revenue Code of 1986, as amended (the "Code"), provides that a transferee (buyer) of a United States real property interest must withhold tax if the transferor (seller) is a foreign person. In order to inform the transferee (buyer) that withholding of tax is not required upon the disposition of a United States real property interest, the Affiant, as the President of and on behalf of the City certifies the following:

a) the City is an Ohio corporation, not a foreign corporation, a foreign partnership, a foreign trust, a foreign estate or a non-resident alien for purposes of United States income taxation or otherwise a foreign person (as those terms are defined in the Code and the regulations with respect thereto).

b) the City's United States Employer Identification Number is \_\_\_\_\_; and

c) the City's address is 345 High Street, Hamilton, Ohio 45011.

9. The Affiant understands that this certification may be disclosed to the Internal Revenue Service and that any false statement contained herein could be punished by fine, imprisonment or both.

10. Under penalties of perjury, the Affiant declares that the Affiant has examined this certification and to the best of his knowledge and belief it is true, correct and complete, and that the Affiant further declares that he has authority to sign this document on behalf of the City.

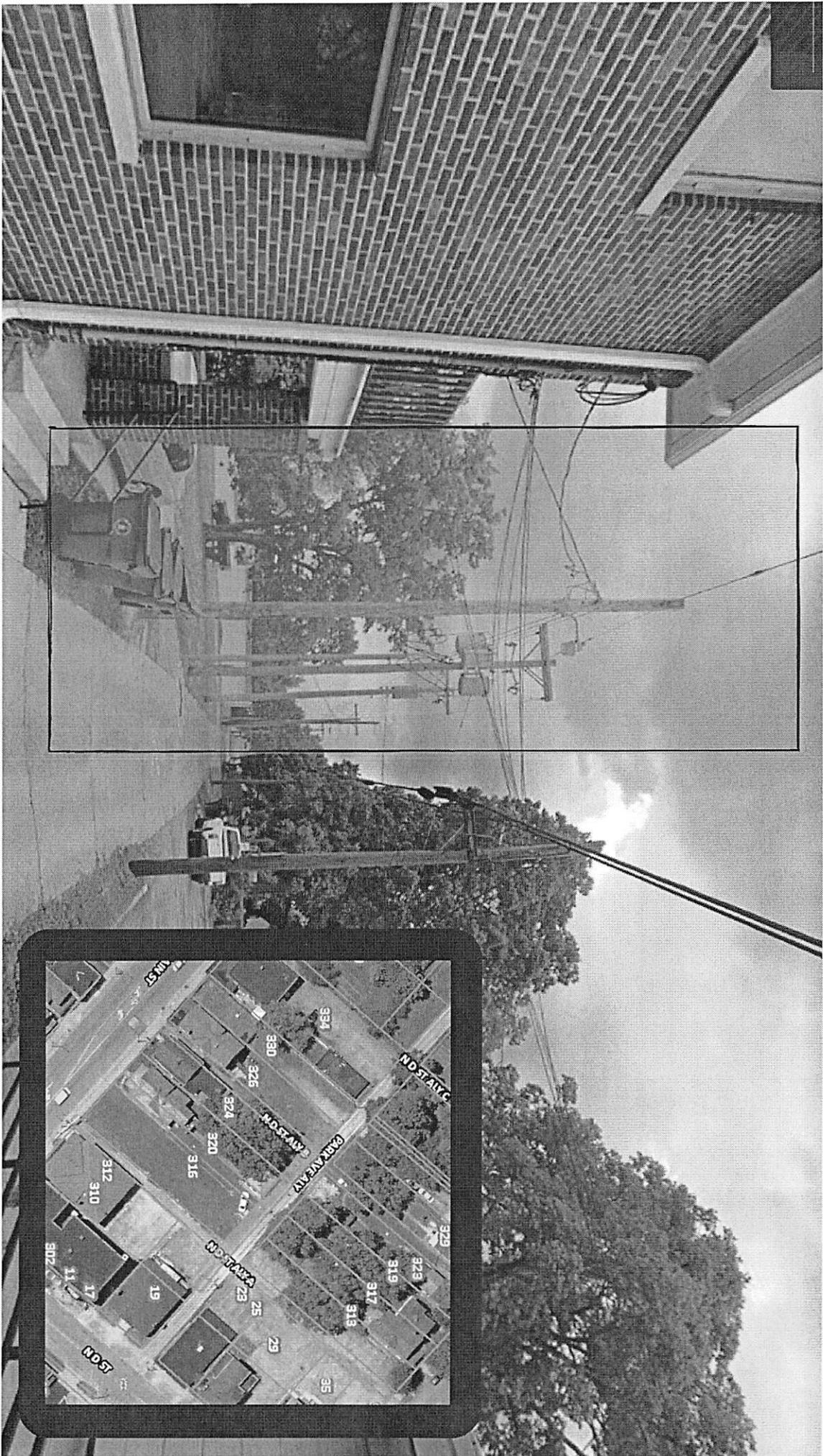
\_\_\_\_\_  
Joshua A. Smith, City Manager

Sworn to before me and subscribed in my presence this \_\_\_\_ day of \_\_\_\_\_, 2021, by Joshua A. Smith, City Manager.

\_\_\_\_\_  
Notary Public

Exhibit D  
Utility Relocation







Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community, Esri Community Maps, 2014

 Areas

-  Override 1
-  Owner Parcels
-  Municipal Boundaries
-  Site Address Points

# Exhibit E



## EXHIBIT F

### **City of Hamilton, Ohio Developer Insurance Requirements**

Developer shall maintain, at its own expense, while that certain Development Agreement (“Agreement”) dated \_\_\_\_\_, 2020, between the City of Hamilton, Ohio (the “City” or “the City”) and Keystone Lot, LLC (the “Developer”) and any extensions thereof remains in effect, the following minimum insurance coverages of the types and in the amounts described below that are applicable to the scope of work being performed:

1. **Workers’ Compensation and Employer’s Liability Insurance.** Developer must carry Workers’ Compensation Insurance (including occupational disease) in compliance with Workers’ Compensation statutes of any applicable jurisdiction in which the work is to be performed. For the attainment of Workers’ Compensation in monopolistic states, including Ohio, coverage must be secured through the state fund. If Developer is a qualified self-insurer in compliance with the laws of the state, this is also acceptable. A certificate of compliance from the appropriate Workers’ Compensation Bureau or Board must be provided with the certificate of insurance.

Developer must also carry Employer’s Liability Insurance with minimum limits of \$500,000 each accident; \$500,000 for disease (per employee); and \$500,000 for disease (policy limit). This policy must include Ohio “Stop Gap” coverage.

2. **Commercial General Liability Insurance.** Developer must carry Commercial General Liability Insurance (“CGL”) written on ISO form CG 00 01 10 01 (or its equivalent) with limits of \$1,000,000 per occurrence and \$2,000,000 in the aggregate. The general aggregate limit shall apply separately to this Project. The City (including its council members, employees and volunteers) must be named as an additional insured on the CGL for liability arising out of the acts or omissions of Developer, including coverage for liability arising out of products and completed operations. The coverage afforded to the City shall be primary to any other insurance carried by the City, and the City’s coverage shall not contribute to any loss made pursuant to this coverage grant. Commercial General Liability coverage (including the City’s status as additional insured) shall be maintained for at least two years after completion of Developer’s work performed under the Agreement.

3. **Commercial Auto Liability Insurance.** Developer shall carry Commercial Automobile Liability Insurance covering all owned, leased and non-owned vehicles used in connection with the work to be performed under the Agreement, with limits of not less than \$1,000,000 combined single limit per accident for bodily injury and property damage. The City shall be afforded coverage under this policy for any liability arising out of the acts or omissions of Developer.

4. **Excess/Umbrella Insurance.** Developer shall carry Commercial Excess or Umbrella Liability Insurance over the Commercial General Liability, Employer’s Liability and Commercial Automobile Liability policies in the amount of \$2,000,000 combined single

limit. The Excess/Umbrella policy is subject to all requirements of the underlying policies as set forth herein.

5. **Builders' Risk Insurance.** Developer shall provide and maintain, during the progress of the work and until the termination of the Agreement, a Builder's Risk Insurance policy to cover all work in the course of construction including falsework, temporary buildings, scaffolding, and materials used in the construction process (including materials designated for the project but stored off site or in transit). The coverage shall equal the total completed value of the work and shall provide recovery at replacement cost.

a. Such insurance shall be on a special cause of loss form, providing coverage on an open perils' basis insuring against the direct physical loss of or damage to covered property, including but not limited to theft, vandalism, malicious mischief, earthquake, tornado, lightning, explosion, breakage of glass, collapse, water damage and testing/startup.

b. Coverage shall include coverage for "soft costs" (costs other than replacement of building materials) including, but not limited to, the reasonable extra costs of the architect/engineer and reasonable Developer extension or acceleration costs. This coverage shall also include the reasonable extra costs of expediting temporary and permanent repairs to, or permanent replacement of, damaged property. This shall include overtime wages and the extra cost of express or other means for rapidly transporting materials and supplies necessary to the repair or replacement.

c. The Builder's Risk deductible may not exceed \$5,000. Developer or subcontractor experiencing any loss claimed under the Builder's Risk policy shall be responsible for that loss up to the amount of the deductible.

d. If Developer is involved solely in the installation of material and equipment and not in new building construction, Developer shall provide an Installation Floater policy in lieu of a Builder's Risk policy. The policy must comply with the provisions of this Section 5.

6. **Pollution Liability Insurance.** Developer shall purchase and maintain pollution liability coverage of at least \$1,000,000 per occurrence. This policy shall cover property damage, bodily injury and cleanup/pollution remediation costs caused by a pollution event and otherwise excluded under Developer's Commercial General Liability policy. The City shall be afforded protection under this policy as an additional insured, including coverage for claims arising out of Developer's products and completed operations.

7. This Section is Intentionally Left Blank.

8. **Railroad Protective Liability Insurance.** If the work is being performed within 50 feet of a railroad, Developer shall maintain Railroad Protective Liability insurance coverage with limits of \$2,000,000 per occurrence and \$6,000,000 in the aggregate. Developer shall name the City and the affected railroad as additional insured(s) on such policy for liability arising out of work performed under the Agreement.

9. Requirements Common to All Policies.

a. Developer shall be solely responsible for reimbursing any deductible amount to the insurer, even if payment is being made on behalf of the City as an additional insured on Developer's policy. Any deductibles or self-insured retentions in excess of \$5,000 must be disclosed and approved in writing by the City.

b. Developer waives all rights of recovery it may otherwise have against the City (including its council members, employees and volunteers) to the extent the damages are covered by any of Developer's insurance policies as required in the Purchase Order.

c. All insurance required hereunder shall be placed with insurers that have a minimum A.M. Best's rating of A-/X and shall be licensed, admitted insurers authorized to do business in the State of Ohio.

d. A certificate(s) of insurance showing that Developer's insurance coverages are in compliance with the insurance requirements set forth herein must be completed by Developer's insurance agent, broker, or insurance company as of the Closing. All certificates (other than Ohio Workers' Compensation) shall provide for thirty (30) days' written notice to the City prior to cancellation or non-renewal of any insurance referred to therein. The certificate shall reference the City's status as an additional insured with primary/noncontributory coverage under both the General Liability and Auto policies.

e. Failure of the City to obtain certificate(s) or other evidence of full compliance with these insurance requirements (or failure of the City to identify and/or object to a deficiency in the certificate(s) that is/are provided by Developer) shall not be construed as a waiver of Developer's obligations to maintain such insurance. The City shall have the right, but not the obligation, to prohibit Developer from beginning performance under the Agreement until such certificates or other evidence that insurance has been placed in complete compliance with the above insurance requirements is received and approved by the City. Developer shall provide certified copies of all insurance policies required above within ten (10) days of written request from the City.

f. By requiring insurance herein, the City does not represent that coverage and limits will necessarily be adequate to protect Developer, and such coverage limits shall not be deemed as a limitation on Developer's liability under the indemnities granted to the City.

g. Any subcontractors engaged by Developer to perform the work shall comply with these insurance and indemnification provisions and shall provide primary/noncontributory coverage to the City as set forth herein.

h. A capitalized term not otherwise defined herein shall have the same meaning as is ascribed to it in the Agreement.

## City Council Meeting Staff Report

**Report To:** The Honorable Mayor Patrick Moeller & Members of the City Council

**Report From:** Dave Jones, Director of Finance

**Agenda Item:** An Emergency Ordinance authorizing the issuance of Taxable Economic Development Refunding Revenue Bonds, Series 2020, of the City of Hamilton, Ohio in the maximum principal amount \$31,900,000 to provide funds for the purpose of refinancing costs of various capital improvements to the Champion Mill Site Project and financing grants to acquire, rehabilitate, improve and develop other real property within the City; providing for the pledge of revenues for the payment of such bonds; authorizing a Certificate of Award, a Bond Purchase Agreement, an Escrow Agreement, an Official Statement, a Continuing Disclosure Agreement; and authorizing other actions in connection with the issuance of such bonds; and declaring an emergency.

<p><b>Approvals/Reviews</b> <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i></p>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	<p><b>Related Strategic Goal(s)</b></p> <input checked="" type="checkbox"/> <b>I</b> Realize new investments <input type="checkbox"/> <b>J</b> Increase gross wages <input checked="" type="checkbox"/> <b>P</b> Increase property values <input checked="" type="checkbox"/> <b>R</b> Generate recreational investments <input checked="" type="checkbox"/> <b>E</b> Engage citizens in activities <input checked="" type="checkbox"/> <b>O</b> General operations
<p><b>Ordinance or Resolution</b> <i>Emergency Ordinance</i></p>	<input checked="" type="checkbox"/> 1 <sup>st</sup> Reading Date: 8-12-2020 <input checked="" type="checkbox"/> 2 <sup>nd</sup> Reading Date: 8-26-2020 <input type="checkbox"/> Resolution Date: <input type="checkbox"/> Public Hearing Date:	
<p><b>Prior Action/Review</b> <i>Please note if this item was discussed on a prior Council or other agenda</i></p>	<p><b>City Council (or other):</b> EOR2020-3-26 passed at 3-11-2020 City Council Meeting</p>	
<p><b>Contract</b></p>	<input type="checkbox"/> Contract Required	<input type="checkbox"/> Additional Document(s) Attached
<p><b>Fiscal Impact</b></p>	<p>Budgeted: \$ Expenditure: \$ Source Funds:</p>	<p><i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i></p>

**Policy Issue**

Does City Council wish to adopt legislation to authorize the issuance of bonds secured by the City's non-tax revenues for the purpose of (i) refinancing on a long-term basis the prior bonds issued to finance the redevelopment of the former Champion Mill site, and (ii) financing grants to the CIC and/or CORE in an aggregate amount estimated to be \$2 million, to be used to acquire, rehabilitate, improve, develop and redevelop real property within the City of Hamilton in furtherance of the purpose of the CIC and CORE?



## Policy Alternative(s)

Council may choose not to adopt such legislation to authorize the issuance of bonds secured by the City's non-tax revenues for the purpose of (i) refinancing on a long-term basis the prior bonds issued to finance the redevelopment of the former Champion Mill site, and (ii) financing grants to the CIC and CORE in an aggregate amount estimated to be \$2 million, to be used to acquire, rehabilitate, improve, develop and redevelop real property within the City of Hamilton in furtherance of the purpose of the CIC and/or CORE.

## Staff Recommendation

Staff recommends that Council receive this report and adopt the legislation to authorize the issuance of bonds secured by the City's non-tax revenues for the purpose of (i) refinancing on a long-term basis the prior bonds issued to finance the redevelopment of the former Champion Mill site, and (ii) financing grants to the CIC and CORE in an aggregate amount estimated to be \$2 million, to be used to acquire, rehabilitate, improve, develop and redevelop real property within the City of Hamilton in furtherance of the purpose of the CIC and CORE. Such authorization is recommended in order to refinance the outstanding Champion Mill bonds at this time to take advantage of currently low interest rates. Financing of the grants to the CIC and/or CORE in order to further advance the revitalization of the City of Hamilton's downtown business district and other areas of the City.

## Statutory/Policy Authority

- Section 3.09, Legislative Procedure, of the Charter of the City of Hamilton.
- The bonds are being issued pursuant to the Ordinance, Article VIII, Section 13 of the Ohio Constitution, and Chapter 165 of the Ohio Revised Code.

## Fiscal Impact Summary

The fiscal impact below was copied directly from the staff report from EOR2020-3-26 passed by City Council March 11, 2020. The only additional fiscal impact would be debt service on an additional approximately \$2 million to the CIC and/or CORE to advance new redevelopment and rehabilitation projects.

### Staff Report EOR2020-3-26 below:

There will be no direct impact on the City's budget because of these loans. Interest will be capitalized on these loans and no payments will become due until after the project is operational. The loans will be repaid by Champion Mill Land, LLC or Historic Mill Land 2, LLC (as applicable) from project cashflow. The original loan noted below for \$9 million was part of the original capital stack and authorized by EOR 2019-6-46. The proceeds will be used as follows:

Maximum amount of proceeds	29.9 million
Escrow to Hamilton Community Foundation – part of original loan	(3.1) million
Refinance City current debt outstanding	(3.75) million
Original loan to Historic Mill Land 2, LLC	(5.0) million
Capitalized interest and Issuance Costs (900K part of original loan)	<u>(2.8) million</u>
Net proceeds of new loan	15.25 million

## Background Information

The City has previously issued its \$28,655,000 Taxable Special Obligation Nontax Revenue Bonds, Series 2020 (Champion Mill Project) to finance loans to advance the redevelopment of the Champion Mill site. Due to the global pandemic and related turmoil in the financial markets, such bonds were issued on a short-term basis. The financial markets have settled, and the City has the opportunity to refinance the prior bonds on a long-term basis at low interest rates. The purpose the proposed bonds is to refinance at such lower rates, as well as provide an additional approximately \$2 million to the CIC and/or CORE to advance new redevelopment and rehabilitation projects.

## Attached Information

N/A

## Copies Provided to:

N/A



EMERGENCY ORDINANCE NO. \_\_\_\_\_

**AN EMERGENCY ORDINANCE AUTHORIZING THE ISSUANCE OF TAXABLE ECONOMIC DEVELOPMENT REFUNDING REVENUE BONDS, SERIES 2020, OF THE CITY OF HAMILTON, OHIO IN THE MAXIMUM PRINCIPAL AMOUNT OF \$31,900,000 TO PROVIDE FUNDS FOR THE PURPOSE OF REFINANCING COSTS OF VARIOUS CAPITAL IMPROVEMENTS TO THE CHAMPION MILL SITE PROJECT AND FINANCING GRANTS TO ACQUIRE, REHABILITATE, IMPROVE AND DEVELOP OTHER REAL PROPERTY WITHIN THE CITY; PROVIDING FOR THE PLEDGE OF REVENUES FOR THE PAYMENT OF SUCH BONDS; AUTHORIZING A CERTIFICATE OF AWARD, A BOND PURCHASE AGREEMENT, AN ESCROW AGREEMENT, AN OFFICIAL STATEMENT, A CONTINUING DISCLOSURE AGREEMENT; AUTHORIZING OTHER ACTIONS IN CONNECTION WITH THE ISSUANCE OF SUCH BONDS; AND DECLARING AN EMERGENCY.**

WHEREAS, the City of Hamilton, Ohio (the “City”) desired to facilitate the redevelopment of the former Champion Paper mill site into a mixed-use sports, hotel and conference complex (collectively, the “Champion Mill Project”); and

WHEREAS, the City desires to facilitate the acquisition, rehabilitation, improvement, development and redevelopment of other properties in the City’s downtown business district and other areas of the City through the provision of grants to The Community Improvement Corporation of Hamilton, Ohio, and/or The Consortium for Ongoing Reinvestment Efforts (the “Redevelopment Project” and together with the Champion Mill Project, the “Project”); and

WHEREAS, in accordance with Article VIII, Section 13 of the Ohio Constitution, this Council finds that each of the Champion Mill Project and the Redevelopment Project shall constitute a public purpose; and

WHEREAS, the Council of the City found and determined that it was necessary and in the best interest of the City to issue revenue bonds of the City to provide moneys to (i) provide grants, loans or otherwise make available funds in support of the Champion Mill Project, (ii) to redeem all of the City’s previously outstanding \$3,893,340.07 Property Acquisition and Improvement Refunding Note, Series 2019 (Taxable) (Non-Tax Revenues) (the “Note”), (iii) fund a debt service reserve account to support the repayment of such revenue bonds, if advisable, and (iv) pay costs of issuance of such revenue bonds; and

WHEREAS, the City issued its \$28,655,000 Taxable Special Obligation Nontax Revenue Bonds, Series 2020 (Champion Mill Project) (the “Original Bonds”) pursuant to Article VIII, Section 13 of the Ohio Constitution, Chapter 165 of the Ohio Revised Code, the Charter of the City, Emergency Ordinance No. EOR2019-6-46, passed by the City on June 12, 2019 (the “Original Bonds Ordinance”), as amended by Emergency Ordinance No. EOR2020-3-26, passed by the City on March 11, 2020, and the Certificate of Award authorized thereby (collectively with the Original Bonds Ordinance, the “Original Bond Legislation”), to (i) finance loans in support of the development or the redevelopment of the Champion Mill Project, (ii) refund the Note, (iii) fund capitalized interest and (iv) to pay costs associated with the issuance of the Original Bonds; and

WHEREAS, the Original Bonds are currently outstanding in the aggregate principal amount of \$28,655,000; all of which is expected to remain outstanding as of the issuance of the Series 2020 Bonds; and

WHEREAS, the Original Bonds are subject to mandatory tender on January 1, 2025, and it is in the interest of the City to refinance the Champion Mill Project on a long-term basis at favorable interest rates; and

WHEREAS, this Council finds and determines that it is necessary and in the best interest of the City to issue revenue bonds of the City to provide moneys to (i) provide grants, loans or otherwise make funds available to The Community Improvement Corporation of Hamilton, Ohio (the “CIC”), and/or The Consortium for Ongoing Reinvestment Efforts (“CORE”) for the purpose of facilitating the acquisition, rehabilitation, improvement, development and redevelopment of properties in the City’s downtown business district and other areas of the City, in furtherance of the purpose of the CIC and/or CORE, as applicable, which constitute public purposes of the City; (ii) pay debt service of and redeem all or a portion of the outstanding Original Bonds by currently refunding or advance refunding such bonds (iii) fund a debt service reserve account to support the repayment of the Series 2020 Bonds, if advisable, and (iv) pay costs of

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issuance of the Series 2020 Bonds; and

WHEREAS, this Ordinance is hereby declared to be an emergency measure to provide for the immediate preservation of the peace, property, health or safety of the City and its citizens, the emergency being the urgent necessity of refinancing the Original Bonds at any such time in order to take advantage of low interest rates and reduce financing costs;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hamilton, State of Ohio:

SECTION I: Definitions. In addition to the words and terms elsewhere defined in this Ordinance, unless the context or use clearly indicates another or different meaning or intent:

Any reference herein to the City or this Council, or to any officers or members thereof, shall include those which succeed to their functions, duties or responsibilities pursuant to or by operation of law or who are lawfully performing their functions.

Unless the context shall otherwise indicate, words importing the singular number shall include the plural number, and vice versa, and the terms "hereof," "hereby," "hereto," "hereunder," and similar terms, mean this Ordinance.

*"Certificate of Award"* means the Certificate of Award authorized in Section VII hereof.

*"Continuing Disclosure Agreement"* means the Continuing Disclosure Agreement, if any, which shall constitute the continuing disclosure agreement made by the City for the benefit of the holders of the Series 2020 Bonds in accordance with the Rule, as executed by the City Manager and the Director of Finance, or either of them acting alone, in accordance with Section VII hereof.

*"Escrow Agreement"* means an Escrow Deposit Agreement, if necessary, dated the date of issuance of the Series 2020 Bonds, between the City and the Escrow Trustee, executed by the City Manager and the Director of Finance, or either of them acting alone.

*"Escrow Fund"* means the Original Bonds Refunding Escrow Fund, if necessary created pursuant to Section VIII and in accordance with the Escrow Agreement.

*"Escrow Trustee"* means the escrow trustee designated pursuant to the Escrow Agreement.

*"Original Purchaser"* means the purchaser of the Series 2020 Bonds named in the Certificate of Award.

*"Rule"* means Rule 15c2-12 prescribed by the SEC pursuant to the Securities Exchange Act of 1934, as amended.

*"SEC"* means the Securities and Exchange Commission.

*"Series 2020 Bonds Proceedings"* means, collectively, this Ordinance, the Certificate of Award, and such other proceedings of the City, including the Series 2020 Bonds, that provide collectively for, among other things, the rights of holders of the Series 2020 Bonds.

The captions and headings in this Ordinance are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Sections, subsections, paragraphs, subparagraphs or clauses hereof. Reference to a Section means a section of this Ordinance unless otherwise indicated. Any reference herein to the City or this Council, or to any officers or members thereof, shall include those which succeed to their functions, duties or responsibilities pursuant to or by operation of law or who are lawfully performing their functions.

Unless the context shall otherwise indicate, words importing the singular number shall include the plural number, and vice versa, and the terms "hereof," "hereby," "hereto," "thereunder," and similar terms, mean this Ordinance.

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SECTION II: Authorization of Bonds: Designation. It is hereby determined to be financially advantageous, necessary and in the best interest of the City to issue and this Council hereby determines that bonds of the City shall be issued in the maximum aggregate principal amount of \$31,900,000 (the "Series 2020 Bonds"), for the public purpose of providing moneys to (i) provide grants, loans or otherwise make funds available to the CIC and/or CORE for the purpose of facilitating the acquisition, rehabilitation, improvement, development and redevelopment of properties in the City's downtown business district and other areas of the City, in furtherance of the purpose of the CIC and/or CORE, as applicable, (ii) pay debt service of and redeem all or a portion of the outstanding Original Bonds by currently refunding and/or advance refunding such bonds (iii) fund a debt service reserve fund, if advisable as determined by the Director of Finance, and (iv) pay costs relating to the issuance of the Series 2020 Bonds. The Series 2020 Bonds shall be designated "City of Hamilton, Taxable Special Obligation Nontax Revenue Refunding Bonds, Series 2020 (Redevelopment Projects)", or such other designation set forth in the Certificate of Award, and shall express upon their face the purpose for which they are issued and that they are issued pursuant to the Act and this Ordinance.

This Council hereby determines that the Series 2020 Bonds are being issued to finance the Redevelopment Project and refinance the Champion Mill Project at favorable interest rates on a long-term basis, create and preserve employment opportunities, and improve the economic welfare of the people of the City, as permitted under Article VIII, Section 13 of the Ohio Constitution. The Series 2020 Bonds shall be issued pursuant to the Charter of the City, the Series 2020 Bonds Proceedings, Article VIII, Section 13 of the Ohio Constitution, and Chapter 165 of the Ohio Revised Code (the "Act"). The aggregate principal amount of the Series 2020 Bonds shall not exceed \$31,900,000 and shall be an amount determined by the City Manager and the Director of Finance in the Certificate of Award authorized herein to be the aggregate principal amount of Series 2020 Bonds that is required to be issued at this time for the purpose stated hereinabove.

SECTION III: Terms and Execution of the Series 2020 Bonds. The Series 2020 Bonds shall be issued in the forms and denominations, shall be numbered, dated and payable, and shall mature and be subject to optional and mandatory redemption as determined by the City Manager and the Director of Finance in the Certificate of Award. The Series 2020 Bonds shall bear interest at the rate or rates per year as shall be determined by the City Manager and the Director of Finance in the Certificate of Award, which determination shall be in the best interest of and financially advantageous to the City; provided that the net interest cost for the Series 2020 Bonds determined by taking into account the respective principal amounts of the Series 2020 Bonds and terms to maturity or mandatory sinking fund redemption requirements, if any, of those principal amounts of Series 2020 Bonds shall not exceed 7.00%. The Certificate of Award is incorporated herein by reference. The Series 2020 Bonds shall be executed on behalf of the City by the manual or facsimile signatures of the City Manager and the Director of Finance, and may, but shall not be required to, bear the seal of the corporation or a facsimile thereof. In case any officer whose signature or a facsimile thereof shall appear on the Series 2020 Bonds shall cease to be such officer before the issuance or delivery of the Series 2020 Bonds, such signature or facsimile thereof shall nevertheless be valid and sufficient for all purposes, the same as if the officer had remained in office until after that time.

The Series 2020 Bonds shall bear the manual authenticating signature of an authorized representative of such bank or trust company as is selected by the Director of Finance to act as paying agent, registrar and transfer agent (the "Paying Agent and Registrar") for the Series 2020 Bonds. The principal amount of, and interest on, the Series 2020 Bonds shall be payable at the principal office of the Paying Agent and Registrar. The Director of Finance is hereby authorized to enter into a Registrar Agreement with the Paying Agent and Registrar on terms he determines are most advantageous to the City and in form satisfactory to bond counsel, in order to provide for the services of the Paying Agent and Registrar as authenticating agent, registrar and paying agent for the Series 2020 Bonds, all of which shall be conclusively evidenced by the signing of the Registrar Agreement and amendments thereto. The Series 2020 Bonds shall not be valid or obligatory for any purpose or shall be entitled to any security or benefit under the Series 2020 Bond Proceedings unless and until the certificate of authentication printed on the Series 2020 Bonds are signed by the Paying Agent and Registrar as authenticating agent. Authentication by the Registrar shall be conclusive evidence that the Series 2020 Bond so authenticated has been duly issued, signed and delivered under, and is entitled to the security and benefit of, the Series 2020 Bond Proceedings. The certificate of authentication may be signed by any authorized officer or employee of the

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Paying Agent and Registrar.

The Series 2020 Bonds shall be transferable by the registered holder thereof in person or by his attorney duly authorized in writing at the principal office of the Paying Agent and Registrar upon presentation and surrender thereof to the Paying Agent and Registrar. The City and the Paying Agent and Registrar shall not be required to transfer the Series 2020 Bonds during the 15-day period preceding any interest payment date, and no such transfer shall be effective until entered upon the registration records maintained by the Paying Agent and Registrar. Upon such transfer, a new Series 2020 Bonds of authorized denominations of the same maturity and for the same aggregate principal amount will be issued to the transferee in exchange therefor.

The City and the Paying Agent and Registrar may deem and treat the registered holder of the Series 2020 Bonds as the absolute owner thereof for all purposes, and neither the City nor the Paying Agent and Registrar shall be affected by any notice to the contrary.

**SECTION IV: Sale of the Series 2020 Bonds.** The Series 2020 Bonds will be purchased by such entity identified in the Certificate of Award, (the "*Original Purchaser*"), pursuant to a Bond Purchase Agreement in a form acceptable to the City Manager and the Director of Finance and consistent with the purposes of this Ordinance (the "*Bond Purchase Agreement*"), at the purchase price set forth therein, and on the terms and conditions to be determined in the Certificate of Award and described in the Bond Purchase Agreement. The appropriate officers of the City are authorized and directed to make on behalf of the City the necessary arrangements to establish the date, location, procedure and conditions for the delivery of the Series 2020 Bonds to the Original Purchaser, and to take all steps necessary to effect due execution and delivery to the Original Purchaser of the Series 2020 Bonds (or temporary bonds delivered in lieu of definitive Series 2020 Bonds until their preparation and delivery can be effectuated) under the terms of this Ordinance, the Bond Purchase Agreement and the Certificate of Award. The execution of the Bond Purchase Agreement by the City Manager and the Director of Finance is hereby authorized and shall constitute the conclusive approval of the purchase price and the terms and conditions of purchase of the Series 2020 Bonds, and no further action of this Council shall be required.

The proceeds from the sale of the Series 2020 Bonds received by or on behalf of the City shall be paid into the proper fund or funds, and those proceeds are hereby appropriated and shall be used for the purposes for which the Series 2020 Bonds are being issued, all as set forth in the Certificate of Award and the Bond Purchase Agreement.

**SECTION V: Pledged Revenues.** The Series 2020 Bonds shall be secured by the City's Non-tax Revenues (as hereinafter defined), and the City hereby pledges for the prompt payment of the same. Notwithstanding the foregoing pledge, the City may, and is hereby authorized to, pay debt service on the Series 2020 Bonds from any lawfully available monies of the City. The Series 2020 Bonds shall not constitute a general obligation or pledge of the full faith and credit of the City.

For purposes of this Ordinance, "*Non-tax Revenues*" means all moneys of the City which are not moneys raised by taxation, to the extent available for such purposes, including, but not limited to the following: (a) grants from the United States of America and the State of Ohio; (b) payments in lieu of taxes as now or hereafter authorized and available under State statute; (c) fines and forfeitures which are deposited in the City's General Fund; (d) fees deposited in the City's General Fund from properly imposed licenses and permits; (e) investment earnings on the City's General Fund and which are credited to the City's General Fund; (f) investment earnings of other funds of the City that are credited to the City's General Fund; (g) proceeds from the sale of assets which are deposited in the City's General Fund; (h) charges for services and rental income which is deposited in the City's General Fund; and (i) gifts and donations.

The City may issue additional obligations secured by Non-Tax Revenues provided that prior to the issuance of any additional obligations on a parity with the Series 2020 Bonds, the City shall be required to furnish certification by the Director of Finance showing that the aggregate amount of Non-tax Revenues received during the fiscal year immediately preceding the issuance of such additional obligations is equal to a multiple, as determined by Director of Finance in the Bond Purchase Agreement or other appropriate certificate or agreement prior to the issuance of the Series 2020 Bonds, of the largest amount required to be paid in any succeeding calendar year to meet debt service payment requirement of all such parity

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obligations and the Series 2020 Bonds. Any such obligations secured by Non-tax Revenues, other than the Series 2020 Bonds, shall be issued only upon separate authorization by this Council.

SECTION VI: Application for Rating; Bond Insurance; Credit Support Instrument. If, in the judgment of the City Manager and the Director of Finance, the filing of an application for (i) a rating on the Series 2020 Bonds by one or more nationally-recognized rating agencies, (ii) a credit support instrument for a debt service reserve fund, if any, to support payment of principal and interest on the Series 2020 Bonds, or (iii) a policy of insurance from a company or companies to better assure the payment of principal of and interest on the Series 2020 Bonds, is in the best interest of and financially advantageous to the City, the City Manager and the Director of Finance, or either of them, acting alone, is authorized to prepare and submit those applications, to provide to each such agency or company such information as may be required for the purpose, and to provide further for the payment of the cost of obtaining each such rating or policy, except to the extent otherwise paid from proceeds of the Series 2020 Bonds to the extent available and otherwise from any other funds lawfully available and that are appropriated or shall be appropriated for that purpose. The City Manager and the Director of Finance are hereby authorized to, to the extent necessary or required, to enter into any agreements, in the name of and on behalf of the City, that the City Manager, Director of Finance and Director of Law deem necessary in connection with obtaining that bond insurance or other credit support instrument.

SECTION VII: Authorization of the Bond Purchase Agreement, Certificate of Award, Official Statement, Continuing Disclosure Agreement and All Other Documents to be Executed by the City. The City Manager and the Director of Finance are authorized and directed to execute, acknowledge and deliver in the name and on behalf of the City, the Certificate of Award and the Bond Purchase Agreement in such form and substance consistent with this Ordinance and not substantially adverse to the City and approved by the officers executing the same on behalf of the City. The approval of the Bond Purchase Agreement by said officers shall be conclusively evidenced by the execution of the Bond Purchase Agreement by such officers.

The City Manager and the Director of Finance, or either of them, acting alone, are authorized and directed, if advisable and deemed necessary, on behalf of the City and in their official capacities, to (i) prepare or cause to be prepared, and make or authorize modifications, completions or changes of or supplements to, a disclosure document in the form of an official statement relating to the original issuance of the Series 2020 Bonds, (ii) determine and to certify or otherwise represent, when the official statement is to be "deemed final" (except for permitted omissions) by the City as of its date or is a final official statement for purposes of paragraph (b) of the Rule, (iii) use and distribute, or authorize the use and distribution of those official statements and supplements thereto in connection with the original issuance of the Series 2020 Bonds, and (iv) complete and sign those official statements and any supplements thereto as so approved, together with such certificates, statements or other documents in connection with the finality, accuracy and completeness of those official statements and any supplements, as they may deem necessary or appropriate.

For the benefit of the holders and beneficial owners from time to time of the Series 2020 Bonds, the City agrees to provide or cause to be provided such financial information and operating data, audited financial statements and notices of the occurrence of certain events, in such manner as may be required for purposes of the Rule. The City Manager and the Director of Finance are authorized to complete, sign and deliver the Continuing Disclosure Agreement, in the name and on behalf of the City, in form and substance consistent with this Ordinance. The Continuing Disclosure Agreement is approved, together with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the City Manager and the Director of Finance on behalf of the City, all of which shall be conclusively evidenced by the signing of the Continuing Disclosure Agreement or amendments thereto.

The Director of Finance is further authorized and directed to establish procedures in order to ensure compliance by the City with its Continuing Disclosure Agreement, including timely provision of information and notices as described above. Prior to making any filing required under the Rule, the Director of Finance shall consult with and obtain legal advice from, as appropriate, the Law Director and bond counsel selected by the City. The Director of Finance, acting in the name and on behalf of the City, shall be entitled to rely upon any such legal advice in determining whether a filing should be made. The performance by the City of

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its Continuing Disclosure Agreement shall be subject to the annual appropriation of any funds that may be necessary to perform it.

The City Manager and the Director of Finance, or either of them, acting alone, are hereby separately authorized and directed to take any and all actions and to execute such financing statements, assignments, documents, certificates and other instruments and/or agreements that may be necessary or appropriate in the opinion of Frost Brown Todd LLC, as Bond Counsel, in order to effect the issuance of the Series 2020 Bonds and the intent of this Ordinance. The City Clerk, or other appropriate officer of the City, shall certify a true transcript of all proceedings had with respect to the issuance of the Series 2020 Bonds, along with such information from the records of the City as is necessary to determine the regularity and validity of the issuance of the Series 2020 Bonds.

**SECTION VIII: Call for Redemption; Escrow Trustee; Escrow Agreement; Escrow Fund.** If deemed advisable by the Director of Finance, in order to provide for the investment of those proceeds of the Series 2020 Bonds to be applied to the redemption of, or the payment of the principal of and interest on, the Original Bonds, the City Manager and the Director of Finance, or either of them acting alone, are hereby authorized to designate in the Certificate of Award, or otherwise, a bank or trust company authorized to do business in the State of Ohio to act as Escrow Trustee. The City Manager and the Director of Finance, or either of them acting alone, shall sign and deliver, in the name of the City, such Escrow Agreement between the City and the Escrow Trustee, in form and substance consistent with this Ordinance in order to effect the redemption of the Original Bonds. To the extent necessary, the Escrow Fund provided for in the Escrow Agreement is hereby created. Such signature or signatures shall constitute the conclusive approval of the Escrow Agreement or amendments thereto. The City Manager and the Director of Finance, or either of them acting alone, shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the Escrow Agreement, except to the extent paid from the proceeds of the Series 2020 Bonds to the extent available and then from other money lawfully available and appropriated or to be appropriated for that purpose. The Escrow Trustee, the financial advisor to the City, the Underwriter, or any nationally recognized bond counsel approved by the Director of Finance is hereby authorized to execute and file on behalf of the City any subscriptions for United States Treasury Obligations, State and Local Government Series, as may be necessary, in order to fund, in part, any escrow in connection the defeasance and redemption of the Original Bonds.

Acting pursuant to the Original Bond Legislation, the outstanding Original Bonds are hereby called for redemption as set forth in the Certificate of Award (the "*Original Bonds Redemption Date*"), at the required redemption price of the principal amount thereof, and the Director of Finance is hereby authorized and directed to cause the outstanding Original Bonds to be called for redemption on the Original Bonds Redemption Date and arrange for the notice of redemption to be given in accordance with the applicable provisions of the Original Bond Legislation.

In order to provide for the payment of (a) interest on the outstanding Original Bonds following the delivery of the Series 2020 Bonds and through the Original Bonds Redemption Date, (b) the principal (if any) of the outstanding Original Bonds maturing on or prior to the Original Bonds Redemption Date, and (c) the principal of the outstanding Original Bonds to be called for redemption on the Original Bonds Redemption Date, the City covenants and agrees with the Escrow Trustee and with the owners of the outstanding Original Bonds that the City will take, and will cause the Escrow Trustee to take, all steps required by the terms of the Escrow Agreement to carry out such payments. The City covenants and agrees to take, or cause to be taken, all steps required by this Ordinance, the Escrow Agreement, and the Original Bond Legislation to carry out such payments so that the outstanding Original Bonds are not deemed to be outstanding. The City shall provide for the provision of the verification and for the payment of any fee associated with the provision of the verification from the proceeds of the Series 2020 Bonds to the extent available and otherwise from other lawfully available funds of the City, which funds are hereby appropriated for such purpose to the extent necessary.

**SECTION IX: No Personal Liability.** No recourse under or upon any obligation, covenant, acceptance, or agreement contained in this Ordinance, or in any Series 2020 Bond, or the Bond Purchase Agreement, or under any judgment obtained against the City or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any constitution or statute or otherwise, or under any circumstances, shall be had against any officer as such, past, present, or future, of the City, either directly or through the

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City, or otherwise, for the payment for or to the City or any receiver thereof, or for or to any holder of any Series 2020 Bond, or otherwise, of any sum that may be due and unpaid by the City upon any of the Series 2020 Bonds. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such officer, as such, to respond by reason of any act or omission on his or her part, or otherwise, for, directly or indirectly, the payment for or to the City or any receiver thereof, or for or to the owner or any holder of any Series 2020 Bond, or otherwise, of any sum that may remain due and unpaid upon any Series 2020 Bond, shall be deemed to be expressly waived and released as a condition of and consideration for the execution and delivery of the Bond Purchase Agreement, and the issuance of the Series 2020 Bonds.

SECTION X: No Debt or Tax Pledge. Anything in this Ordinance, the Bond Purchase Agreement, the Series 2020 Bonds or any other agreement or instrument to the contrary notwithstanding, neither this Ordinance, the Series 2020 Bonds, or the Bond Purchase Agreement shall represent or constitute a general obligation debt or pledge of the faith and credit or the taxing power of the City, and each Series 2020 Bond shall contain on the face thereof a statement to that effect. Nothing herein shall be deemed to prohibit the City, of its own volition, from using, to the extent it may be lawfully authorized to do so, any resources or revenues other than Non-Tax Revenues for the fulfillment of any of the terms, conditions or obligations of the Series 2020 Bonds, the Bond Purchase Agreement, this Ordinance or the Series 2020 Bonds.

SECTION XI: Satisfaction of Conditions for Bond Issuance. This Council determines that all acts and conditions necessary to be performed by the City or to have been met precedent to and in issuing of the Series 2020 Bonds in order to make them legal, valid and binding special obligations of the City have been performed and have been met, in regular and due form as required by law; and that the Series 2020 Bonds are being authorized and issued pursuant to this Ordinance, the Certificate of Award, the Bond Purchase Agreement, the Act and other authorizing provisions of law.

SECTION XII: Severability. If any section, paragraph or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION XIII. Book Entry Series 2020 Bonds. This Council hereby determines that the Series 2020 Bonds may, but are not required to, be issued in Book-Entry-Only form through The Depository Trust Company, New York, New York. The Letter of Representations is hereby ratified and confirmed.

So long as the Series 2020 Bonds are in Book-Entry-Form, the following covenants and agreements of the City shall be in effect:

(a) Definitions.

“*Beneficial Owner*” means the person in whose name a Series 2020 Bond is recorded as the beneficial owner of such Bond by the respective systems of DTC and each of the DTC Participants.

“*CEDE & Co*” means CEDE & Co, the nominee of DTC, and any successor nominee of DTC with respect to the Series 2020 Bonds.

“*DTC*” means The Depository Trust Company, a limited purpose trust company organized under the laws of the State of New York, and its successors and assigns.

“*DTC Participant*” means banks, brokers or dealers who are participants of DTC.

“*Letter of Representations*” means the Blank Letter of Representations dated May 1, 1997, as supplemented from time to time, from the City to DTC, or any other instrument of similar effect.

The Series 2020 Bonds shall initially be issued in global book entry form registered in the name of CEDE & Co, as nominee for DTC.

**Emergency Ordinance No. \_\_\_\_\_ (Cont'd)**

While in book entry form, payment of interest for Series 2020 Bonds registered in the name of CEDE & Co shall be made by wire transfer or such other manner as permitted by the Letter of Representations, to the account of CEDE & Co on the maturity date at the address indicated for CEDE & Co in the bond register.

(b) Book Entry Bonds.

(i) Except as provided in Section XIII(c) hereof, the registered owner of all of the Series 2020 Bonds shall be DTC and the Series 2020 Bonds shall be registered in the name of CEDE & Co, as nominee for DTC.

(ii) The Series 2020 Bonds shall be initially issued in the form of a single fully registered global certificate with respect to each maturity Series 2020 Bonds, or portion of any such maturity to the extent any maturity includes inconsistent terms. Upon initial issuance, the ownership of such Series 2020 Bonds shall be registered in the City's bond register in the name of CEDE & Co, as nominee of DTC. The Paying Agent and Registrar and the City may treat DTC (or its nominee) as the sole and exclusive registered owner of the Series 2020 Bonds registered in its name for the purposes of payment of the principal, or redemption price of or interest on the Series 2020 Bonds, selecting the Series 2020 Bonds or portions thereof to be redeemed, giving any notice permitted or required to be given to bondholders under this ordinance, registering the transfer of Series 2020 Bonds, obtaining any consent or other action to be taken by bondholders and for all other purposes whatsoever; and neither the Paying Agent and Registrar nor the City shall be affected by any notice to the contrary. Neither the Paying Agent and Registrar nor the City shall have any responsibility or obligation to any DTC Participant, any person claiming a beneficial ownership interest in the Series 2020 Bonds under or through DTC or any DTC Participant, or any other person which is not shown on the registration books of the Paying Agent and Registrar as being a registered owner, with respect to the accuracy of any records maintained by DTC or any DTC Participant; the payment of DTC or any DTC Participant of any amount in respect of the principal or redemption price of or interest on the Series 2020 Bonds; any notice which is permitted or required to be given to bondholders under this ordinance; the selection by DTC or any DTC Participant of any person to receive payment in the event of a partial redemption of the Series 2020 Bonds; or any consent given or other action taken by DTC as holder of the Series 2020 Bonds. The Paying Agent and Registrar shall pay from moneys available hereunder all principal of, and premium, if any, and interest on the Series 2020 Bonds only to or "upon the order of" DTC (as that term is used in the Uniform Commercial Code as adopted in the State of Ohio), and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to the principal of, and premium, if any, and interest on the Series 2020 Bonds to the extent of the sum or sums so paid. Except as otherwise provided in Section XIII(c) hereof, no person other than DTC shall receive an authenticated Series 2020 Bond certificate for each separate stated maturity evidencing the obligation of the City to make payments of principal of, and premium, if any, and interest pursuant to this ordinance. Upon delivery by DTC to the Paying Agent and Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of CEDE & Co, and subject to the provisions of this ordinance with respect to transfers of Series 2020 Bonds, the word "CEDE & Co" in this ordinance shall refer to such new nominee of DTC.

(c) Delivery of Series 2020 Bond Certificates. In the event the City determines that it is in the best interest of the Beneficial Owners that they be able to obtain Series 2020 Bond certificates, the City may notify DTC and the Paying Agent and Registrar, whereupon DTC will notify the DTC Participants, of the availability through DTC of Bond certificates. In such event, the Paying Agent and Registrar shall issue, transfer and exchange, at the City's expense, Series 2020 Bond certificates as requested by DTC in appropriate amounts. DTC may determine to discontinue providing its services with respect to the Series 2020 Bonds at any time by giving notice to the City and the Paying Agent and Registrar and discharging its responsibilities with respect thereto under applicable law. Under such circumstances (if there is no successor securities depository), the City and Paying Agent and Registrar shall be obligated to deliver Series 2020 Bond certificates as described in this ordinance, provided that the expense in connection therewith shall be paid by DTC. In the event Series 2020 Bond certificates are issued, the provisions of this ordinance shall apply to, among other things, the transfer and exchange of such certificates and the method of payment of principal of, premium, if any, and interest on such certificates. Whenever DTC requests the City and the

**Emergency Ordinance No. \_\_\_\_\_ (Cont'd)**

Paying Agent and Registrar to do so, the Paying Agent and Registrar and the City will cooperate with DTC in taking appropriate action after reasonable notice (i) to make available one or more separate certificates evidencing the Series 2020 Bonds to any DTC Participant having Series 2020 Bonds credited to its DTC account or (ii) to arrange for another securities depository to maintain custody of certificates evidencing the Series 2020 Bonds.

SECTION XIV: Sunshine Law. The Council of the City of Hamilton, Ohio hereby finds and determines that all formal actions relative to the adoption of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and of its committees, if any, which resulted in formal action, were in meetings open to the public, in full compliance with the law, including Section 121.22, Ohio Revised Code, except as otherwise permitted thereby.

SECTION XV: Emergency. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City, and for the further reason that this Ordinance is required to be immediately effective in order to issue and sell the Series 2020 Bonds, which is necessary to enable to the City to take advantage of favorable interest rates in connection with the refinancing of the Original Bonds; wherefore, this Ordinance shall be in full force and effect immediately upon its passage.

PASSED: \_\_\_\_\_

\_\_\_\_\_  
Mayor

Effective Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_

City Clerk

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk of the City of Hamilton, Ohio, State of Ohio, hereby certify that the foregoing Emergency Ordinance No. \_\_\_\_\_ was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in the lobby of City Hall for a period of ten days. POSTED: \_\_\_\_\_.

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**

Emergency Ordinance No. \_\_\_\_\_ (Cont'd)

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk of the City of Hamilton, Ohio do hereby certify that the foregoing is a true and exact reproduction of Emergency Ordinance No. EOR2020-8-\_\_\_\_\_ adopted by the Council of the City of Hamilton, Ohio, at the Regular Meeting on the 26th day of August, 2020.

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**

**RECEIPT**

Received this \_\_\_ day of \_\_\_\_\_, 2020, a certified copy of the foregoing Emergency Ordinance No. EOR2020-8-\_\_\_\_\_ of the City of Hamilton, Ohio.

\_\_\_\_\_  
Roger Reynolds  
County Auditor

By: \_\_\_\_\_  
Deputy County Auditor

4830-9412-3962v7

## City Council Meeting Staff Report

**Report To:** The Honorable Mayor Patrick Moeller & Members of the City Council

**Report From:** Jody Gunderson, Economic Development Director

**Agenda Item:** An ordinance authorizing and directing the sale of property to Origin Venture LLC (“Origin Venture”) relative to certain property located at Hamilton Enterprise Park.

<b>Approvals/Reviews</b> <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	<b>Related Strategic Goal(s)</b> <input checked="" type="checkbox"/> <b>I</b> Realize new investments <input checked="" type="checkbox"/> <b>J</b> Increase gross wages <input checked="" type="checkbox"/> <b>P</b> Increase property values <input type="checkbox"/> <b>R</b> Generate recreational investments <input type="checkbox"/> <b>E</b> Engage citizens in activities <input checked="" type="checkbox"/> <b>O</b> General operations
<b>Ordinance or Resolution</b> <i>Ordinance</i>	<input checked="" type="checkbox"/> 1 <sup>st</sup> Reading Date: 8-12-2020 <input checked="" type="checkbox"/> 2 <sup>nd</sup> Reading Date: 8-12-2020 <input type="checkbox"/> Resolution Date: <input type="checkbox"/> Public Hearing Date:	
<b>Prior Action/Review</b> <i>Please note if this item was discussed on a prior Council or other agenda</i>	<b>City Council (or other):</b> Caucus Report 6-10-2020 City Council Meeting	
<b>Contract</b>	<input checked="" type="checkbox"/> Contract Required	<input checked="" type="checkbox"/> Additional Document(s) Attached
<b>Fiscal Impact</b>	Budgeted: \$ Expenditure: \$ Source Funds:	<i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i>

### Policy Issue

Does City Council wish to adopt legislation approving the sale of certain real property located in Hamilton Enterprise Park, to Origin Venture LLC for their first North American location?

### Policy Alternative(s)

Council may choose not to adopt such legislation approving the sale of certain real property located in Hamilton Enterprise Park, to Origin Venture LLC. Alternatively, Council may choose to retain the property for Municipal Purposes.

### Staff Recommendation

Staff recommends that Council receive this report and adopt the legislation approving the sale of certain real property located in Hamilton Enterprise Park, to Origin Venture LLC for their North American expansion plans.



### **Statutory/Policy Authority**

- Section 3.09, Legislative Procedure, of the Charter of the City of Hamilton.
- Section 175.10, Disposition of Property, Codified Ordinances of the City of Hamilton, Ohio

### **Fiscal Impact Summary**

The City would deposit approximately \$585,000 into the General Fund's Capital and Debt Fund for the sale of the property. The City is selling the property for \$19,500/acre.

### **Background Information**

The Economic Development Department has been in discussions with Origin Venture LLC regarding their project at Hamilton Enterprise Park. The City would sell approximately 30 acres for \$19,500/acre to Origin Venture to construct this new development. Origin Venture would construct a 350,000 square foot facility.

Saica Group, one of the largest and most advanced European players in the development and production of recycled paper for corrugated packaging will occupy the facility. The project investment will be approximately \$72 million. The construction is expected to start in September 2020 and take eighteen months to finish. With this new project, Saica Group will create 64 new jobs in Hamilton with an approximate payroll of \$3.6 million.

We have a draft purchase agreement which is being reviewed by Origin Venture and Saica Group. Consequently, there may be minor revisions recommended to the City Manager by the Director of Economic Development necessary to finalize this transaction.

### **Attached Information**

N/A

### **Copies Provided to:**

N/A



ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AUTHORIZING AND DIRECTING THE SALE OF PROPERTY TO ORIGIN VENTURE LLC (“ORIGIN VENTURE”) RELATIVE TO CERTAIN PROPERTY LOCATED AT HAMILTON ENTERPRISE PARK.**

WHEREAS, Section 173.07 of the Codified Ordinances of the City of Hamilton, Ohio (the “City”), sets forth the provisions for the sale, lease or trade of real property by the City; and

WHEREAS, representatives of Origin Venture LLC, have notified the City that they would like to acquire certain property owned by the City of Hamilton, Ohio; and

WHEREAS, the Development Agreement attached hereto sets forth the terms and conditions of this sale of Property; and

WHEREAS, Council wishes to authorize and direct the City Manager to execute the sale of the Property to ORIGIN VENTURE and take all actions necessary to proceed with the disposition of the Property and to ratify any and all prior actions taken by or on behalf of the City in connection with this sale;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Hamilton, Ohio:

SECTION I: That Council determines that the Property is no longer needed for municipal purposes and that the criteria for the sale of City-owned property for economic development purposes as contemplated by Section 173.07(d) of the Codified Ordinances of the City of Hamilton, Ohio, have been met by the construction of the Project on the Property and the workers to be employed on the Project.

SECTION II: That the City Manager is hereby authorized and directed to execute the sale of the Property at Hamilton Enterprise Park to ORIGIN VENTURE, relative to the development of the Property, for the construction of ORIGIN VENTURE’s new facility. The Development Agreement shall be and read substantially in the form of Exhibit No. 1, attached hereto, incorporated by reference and made a part hereof, subject to any amendments recommended to the City Manager by the Law Director and the Economic Development Director.

SECTION III: That Council finds that this Development Agreement and Sale serves an important public purpose as set forth in the preamble.

SECTION IV: That the City Manager is hereby authorized and directed to execute any and all documents necessary to proceed with the sale of the Property.

SECTION V: That any and all prior actions taken by or on behalf of the City in connection with this sale are hereby ratified.

SECTION VI: This ordinance shall take effect and be in full force from and after the earliest period allowed by law after its passage.

PASSED: \_\_\_\_\_

\_\_\_\_\_  
Mayor

Effective Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_

City Clerk

Ordinance No. \_\_\_\_\_ (cont'd)

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk of the City of Hamilton, Butler County, Ohio, hereby certify that the foregoing Ordinance No. \_\_\_\_\_ was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in the lobby of City Hall for a period of ten days. POSTED: \_\_\_\_\_

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**

Ordinance No. \_\_\_\_\_ (cont'd)

**EXHIBIT NO. 1**

Real Estate Purchase Agreement

This Real Estate Purchase Agreement (this "**Agreement**") is entered into as of \_\_\_\_\_, 2020 (the "**Effective Date**") by and between THE CITY OF HAMILTON, Ohio ("**Seller**" or "**City**") and ORIGIN VENTURE LLC, a Delaware limited liability company ("**Purchaser**").

**RECITALS**

A. Seller owns: (a) a tract of ground containing approximately 20 acres and known as Parcel No. P6461.057.000.063 located in Hamilton, Ohio (the "**Existing Parcel**"); and (b) a tract of ground containing approximately 10.8 acres located in Hamilton, Ohio (the "**Split Parcel**") which will be split off of a larger tract of ground known as Parcel No. P6461.057.000.069 (the "**Mother Parcel**"). The Existing Parcel and the Split Parcel are adjacent to each other.

B. Seller will split the Split Parcel off of the Mother Parcel and thereafter consolidate the Existing Parcel and the Split Parcel into one parcel of real property containing approximately 30.8 acres (the "**Parcel**").

C. The Parcel, together with all improvements now located thereon or therein and together with all rights, privileges, and easements appurtenant to such real property, shall hereinafter be collectively referred to as the "**Property**". The general location of which Property is shown on Exhibit A attached here to and made part hereof.

D. Purchaser desires to purchase the Property from Seller for the purpose of developing and operating a corrugated cardboard manufacturing, warehouse and office facility (the "**Project**") thereon, and Seller desires to sell the Property to Purchaser, on the terms and conditions set forth in this Agreement.

E. In connection with the purchase of the Property, Purchaser intends to enter into a structured lease transaction with the Butler County Port Authority for the purpose of effecting a sales tax exemption for construction materials incorporated into the Project on the terms set forth on Exhibit B attached hereto and made a part hereof (the "**Term Sheet**").

F. Pursuant to Section 173.07(d) of the Certified Ordinances of the City, Seller has determined that the Project is in the best interest of the City to promote economic development in the form of capital investment and job creation.

G. City Council has determined that completion of the Project will enhance the economic development of the City, further the health, safety and welfare of its residents, create jobs and enhance tax revenues for the City.

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Purchase and Sale.** Subject to the provisions hereof, Seller shall transfer to Purchaser and Purchaser shall acquire from Seller, for the consideration and upon the terms provided in this Agreement, the Property.

2. **Purchase Price.** The purchase price (the "**Purchase Price**") for the Property shall be an amount equal to the product of: (a) Nineteen Thousand Five Hundred and 00/100 Dollars (\$19,500.00) (the "**Per Acre Purchase Price**") multiplied by (b) the number of acres of land contained within the boundary lines of the Property as set forth in the approved Lot-Split Survey (as defined in Section 3, below). The Purchase Price shall be paid by Purchaser to Seller at Closing (as defined in Section 10, below) by wire

Ordinance No. \_\_\_\_\_ (cont'd)

transfer of immediately available federal funds. The Purchase Price payable to Seller at the Closing shall be adjusted pursuant to Section 12 of this Agreement.

3. **Lot-Split Survey and Lot Consolidation.**

(a) **Lot Split.** Promptly following the Effective Date, Seller shall commence and thereafter shall diligently pursue all such activities required in order to split the Split Parcel off of the Mother Parcel in compliance with all applicable laws, rules and ordinances, including, without limitation, obtaining, at its sole cost and expense, from Bayer & Becker, Inc., a registered surveyor (the "**Surveyor**"), a lot-split survey of the Property (the "**Lot-Split Survey**"). The Lot-Split Survey shall: (a) depict the number of acres of land contained within boundaries of the Property the nearest one-thousandth (1/1000) of an acre; (b) bear the certification of the Surveyor to Purchaser and Seller that the acreage calculation for the Property as set forth on the Lot Split Survey is true and correct; and (c) be prepared in accordance with the lot split requirements of the City of Hamilton Planning Department and the Butler County, Ohio Engineer's Office. The Lot-Split Survey shall be subject to the written approval of both Purchaser and Seller, which approval shall not be unreasonably withheld, delayed or conditioned. The Lot-Split Survey, as approved by both Purchaser and Seller, shall determine as between Purchaser and Seller the acreage of land contained within the boundaries of the Property for the purpose of calculating the Purchase Price. Seller shall be responsible, at its sole cost, to take all actions as may be required to complete the split of the Split Parcel from the Mother Parcel on or before the Closing.

(b) **Approval.** In the event that Purchaser and Seller are unable to agree on the Lot-Split Survey within thirty (30) days following the date of Seller's written request for Purchaser's approval of the Lot-Split Survey (the "**Lot-Split Survey Approval Request Date**"), either party may terminate this Agreement by giving a written notice of termination to the other. Any notice of termination must be given to the non-terminating party prior to the date that is forty-five (45) days after the Lot-Split Survey Approval Request Date or each party shall be deemed to have approved the version of the Lot-Split Survey for which Purchaser's approval was requested and to have waived its right to terminate this Agreement as provided for in this Section 3(b). After termination, neither Purchaser nor Seller shall have any further rights or obligations under this Agreement, except for those obligations which survive the termination of this Agreement. Each party shall bear its own costs incurred under this Section 3.

(c) **Lot Consolidation.** After Purchaser and Seller have agreed upon the Lot Split Survey, Seller at its sole cost and expense, shall cause the Surveyor to prepare a lot consolidation plat (the "**Lot Consolidation Plat**") which will combine the Split Parcel with the Existing Parcel into a single new lot and tax parcel. The Lot Consolidation Plat shall be subject to the written approval of both Purchaser and Seller, which approval shall not be unreasonably withheld, delayed or conditioned. Seller shall be responsible, at its sole cost, to take all actions as may be required to complete the consolidation of the Split Tract with the Existing Tract to create the new lot and tax parcel on or before the Closing. In the event that Purchaser and Seller are unable to agree on the Lot Consolidation Plat within thirty (30) days following the date of Seller's written request for Purchaser's approval of the Lot Consolidation Plat (the "**Lot Consolidation Plat Approval Request Date**"), either party may terminate this Agreement by giving a written notice of termination to the other. Any notice of termination must be given to the non-terminating party prior to the date that is forty-five (45) days after the Lot Consolidation Plat Approval Request Date or each party shall be deemed to have approved the version of the Lot Consolidation Plat for which Purchaser's approval was requested and to have waived its right to terminate this Agreement as provided for in this Section 3(c). After termination, neither Purchaser nor Seller shall have any further rights or obligations under this Agreement, except for those obligations which survive the termination of this Agreement. Each party shall bear its own costs incurred under this Section 3.

4. **The Project.** The Project consists of the design and construction of a light manufacturing, warehouse and office building containing approximately 300,000 square feet, which may be completed in two (2) phases. The Project: (a) has an estimated initial capital investment by Purchaser of approximately Twenty-Two Million Two Hundred Thousand and 00/100 Dollars (\$22,200,000.00) (if completed in two (2) phases, the first phase is expected to contain approximately 270,000 square feet and have an estimated initial capital invest of approximately Nineteen Million Two Hundred Thousand and 00/100 Dollars (\$19,200,000.00)), excluding equipment and soft costs; and (b) is expected to have an estimated substantial

Ordinance No. \_\_\_\_\_ (cont'd)

completion date of two years following of the Closing (as the same may be extended pursuant to the terms of this Agreement, the "**Estimated Project Completion Date**").

5. **Due Diligence Inspection.**

(a) Commencing on the Effective Date and continuing until 5:00 P.M. (Ohio time) on the date that is two hundred seventy (270) days following the Effective Date (such period, as the same may be extended in accordance with the terms of this Agreement, the "**Due Diligence Period**"), Purchaser, at Purchaser's sole cost and expense, shall have the right, subject to the terms and conditions of this Agreement, to enter upon the Property to examine, inspect and investigate the Property and determine whether the Property is suitable to Purchaser for Purchaser's intended use. Seller agrees that, upon reasonable notice and during normal business hours during the Due Diligence Period, Purchaser, its agents, consultants and employees may enter upon the Property for the purpose of conducting such studies and inspections as may be deemed necessary or appropriate, including, but shall not be limited to: (i) confirming the physical condition of the Property; (ii) confirming the status of the Property's compliance with laws, regulations or ordinances issued or imposed by any governmental or public authority having jurisdiction over the Property; (iii) determining any limitations or restrictions on the height of any structures to be developed on the Property; (iv) determining the availability of utilities; (v) confirming the zoning for the Property; and (vi) determining the presence or absence of hazardous substances on the Property (including conducting Phase I and, as hereinafter provided, Phase II environmental studies). If Purchaser desires to do any invasive testing on the Property, Purchaser shall do so only after notifying Seller and obtaining Seller's prior written consent thereto, which consent shall not be unreasonably withheld, delayed or conditioned. Seller and its personnel shall cooperate in all reasonable respects with Purchaser and its representatives in connection with Purchaser's due diligence investigation. The Due Diligence Period shall be extended for any period in which Purchaser is unable to conduct or is delayed in conducting its investigations as a result of Force Majeure or the failure or delay by Seller in providing access to the Property or any approvals required under this Section 5.

(b) If Purchaser determines that any due diligence matter has not been met to Purchaser's satisfaction, as determined by Purchaser in its sole judgement, or has not been waived by Purchaser, in its sole judgement, Purchaser shall have the right to terminate this Agreement by giving written notice of termination to Seller prior to the expiration of the Due Diligence Period. If Purchaser gives a timely written notice of termination to Seller prior to the expiration of the Due Diligence Period, this Agreement shall terminate and neither party shall have any liability to the other or any further rights or obligations under this Agreement (except for those obligations which survive the termination of this Agreement). In the event of such termination pursuant to this paragraph, each party shall bear its own costs incurred hereunder. If Seller has not been given written notice of termination from Purchaser on or before the expiration of the Due Diligence Period, Purchaser shall be deemed to have waived its right to terminate this Agreement pursuant to the terms of this Section 5(b).

(c) Purchaser shall repair and restore promptly any damage to the Property resulting from Purchaser's due diligence investigations and shall indemnify, defend and hold harmless Seller from any damage, loss, cost or expense to, or claims against Seller or the Property caused by Purchaser's (or its agent's, consultant's or employee's) entry onto the Property.

(d) Purchaser's right of entry provided for in this Section 5 shall terminate on the earlier of: (i) the date of this Agreement is terminated; or (ii) the Closing. Purchaser understands and agrees that all activities on the Property performed by or on behalf of Purchaser shall be done in compliance with the terms and conditions set forth in this Agreement and all applicable laws, rules and regulations.

(e) Prior to entering upon the Property, Purchaser covenants and agrees that Purchaser shall have in effect the following insurance coverages:

Ordinance No. \_\_\_\_\_ (cont'd)

(i) Workers' Compensation insurance, as required by the Ohio Workers' Compensation Act; and

(ii) Commercial General Liability coverage with limits of at least One Million and 00/100 Dollars (\$1,000,000.00) per occurrence and Two Million and 00/100 Dollars (\$2,000,000.00) in the aggregate. The policy shall be written to apply to all bodily injury, property damage, personal injury and other covered loss, however, occasioned, occurring on or about the Property. Such policy shall also insure Purchaser's indemnity obligation to Seller hereinafter set forth in this Section 5. Such policy shall name Seller as an additional insured and shall not be a claims-made policy.

As a condition to any entry on the Property by Purchaser, its contractors, subcontractors or materialmen, Purchaser shall provide Seller with acceptable evidence that the insurance coverage required by this Section 5(e) is effective. Each policy shall provide that it may not be modified, cancelled or allowed to expire without thirty (30) days prior written notice to Seller.

(f) Promptly following the Effective Date, Seller shall deliver to Purchaser copies of the following documents regarding or relative to the Property to the extent in Seller's possession or control: surveys, environmental, engineering, title policies, easements, any written governmental notices within the past thirty-six (36) months relative to the Property, identification of underground and above ground storage tanks and/or any prior removal, details of any public takings, mechanical, or physical condition reports. Seller will furnish or make available to Purchaser such additional documents and information regarding the Property as are reasonably requested by Purchaser from time to time during the term of this Agreement and in the possession or control of Seller. All of the foregoing provided to Purchaser by Seller are collectively hereinafter referred to as the "**Property Information**".

(g) Purchaser is purchasing the Property "As Is," without any representation or warranty by Seller whatsoever, whether express or implied, as to the condition of the Property, or as to its fitness for any particular purpose, all of which are expressly disclaimed by Seller.

6. **Title Insurance.** At least forty-five (45) days before the expiration of the Due Diligence Period, Purchaser shall request from Amrock, Inc., 250 W. Huron Rd., Suite 204, Cleveland OH 44113 (the "**Title Company**") a current commitment for title insurance, together with legible copies of all documents listed as exceptions in the commitment, and a current certificate of taxes due, on the current standard form of 2006 ALTA Owners Title Insurance Policy (collectively, the "**Commitment**"). The Commitment shall require the Title Company to deliver to Purchaser, promptly after the Closing, the owner's title insurance policy issued by the Title Company insuring Purchaser's title to the Property consistent with the Commitment (the "**Title Policy**"), with standard exceptions deleted and subject to the matters approved or deemed approved by Purchaser in accordance with Section 9, below (the "**Permitted Exceptions**"). The Title Policy shall contain such endorsements as Purchaser may request, including, but not limited to, comprehensive, zoning, survey, utility/facility, tax parcel, contiguity, and access endorsements. The Title Company will also serve as the escrow agent for the Closing.

7. **Survey.** At least forty-five (45) days before the expiration of the Due Diligence Period, Purchaser may request that the Surveyor or Genesis Design LLC prepare, an ALTA/ACSM Land Title Survey of the Property in accordance with ALTA and ACSM survey requirements (the "**ALTA Survey**"), in form and substance acceptable to Purchaser and sufficient to enable the Title Company to delete its standard title exceptions for (i) rights or claims of parties in possession not shown by the public records; (ii) encroachments, overlaps, boundary line discrepancies and other matters which would be disclosed by an accurate survey and an inspection of the Property; and (iii) easements or claims of easements not shown by public records (unless included in the Permitted Exceptions).

8. **Title Objections.**

(a) Within ten (10) business days after the date that Purchaser has received the Commitment and the ALTA Survey, if the Purchaser obtains one, Purchaser shall notify Seller in writing of any objections to the ALTA Survey or any items identified in the Commitment. Seller will

Ordinance No. \_\_\_\_\_ (cont'd)

have ten (10) days after it receives Purchaser's written objections ("**Seller's Cure Period**") to notify Purchaser in writing of those objections that Seller is willing to cure, if any, or to advise Purchaser that Seller does not intend to cure such items. If Seller fails to cure to the satisfaction of Purchaser any written objection by Purchaser of which Seller has been given notice in accordance with this paragraph, or elects not to cure, then Purchaser may elect, as its sole remedy, to either (a) waive the objection by written notice given to Seller within ten (10) days after the expiration of Seller's Cure Period and proceed to Closing, or (b) terminate this Agreement by written notice given to Seller, in which case the parties will be released from all obligations hereunder, except for those obligations which survive the termination of this Agreement. Purchaser will have five (5) business days after receipt of any amendment to the Commitment to object to any changes in the same fashion as objections to the initial Commitment under this paragraph. Any items in the Commitment or ALTA Survey that Purchaser does not object to, or which Purchaser subsequently waives, will be deemed approved by Purchaser. The foregoing notwithstanding, all mortgages, liens and other encumbrances of ascertainable amounts incurred by, for, or on behalf of Seller and encumbering the Property shall be paid by Seller at or before Closing.

(b) For purposes of clarity, the parties agree that the following are collectively hereinafter referred to as "**Permitted Exceptions**": (i) installments of real estate taxes and assessments (general and special) constituting a lien on the Property, but not yet due and payable; (ii) building setback lines and other requirements provided for in the applicable zoning ordinances; (iii) all title objections subsequently waived, deemed waived, or deemed approved by Purchaser; (iv) the Covenant (as defined in Section 12, below); (v) the Recovery Payment Obligation (as defined in Section 14, below), and (vi) the easements, encumbrances and restrictions contained in the Easement Instrument (as defined in Section 10, below); if any.

9. **Title at Closing.** At Closing, Seller will convey to Purchaser good and marketable fee simple title to the Property, free of all liens and encumbrances other than the Permitted Exceptions, by quit claim deed (the "**Deed**").

10. **Closing.**

(a) **Closing.** The closing of the transactions contemplated under this Agreement (the "**Closing**") will take place on the business day as agreed by Purchaser and Seller following the satisfaction (or written waiver by Purchaser) of the conditions to Purchaser's obligation to close set forth in Section 11(b), but in no event later than March 31, 2021. The Closing shall be completed through escrow, with each party delivering to the Title Company prior to the Closing all of such party's closing deliverables and escrow closing instructions. Upon satisfaction or completion of all escrow closing conditions, the parties shall direct the Title Company to record and deliver the other closing documents to the appropriate party and make disbursements according to a settlement statement approved and executed by Seller and Purchaser.

(b) **Conditions Precedent to Purchaser's Obligations.** Each and every obligation of Purchaser under this Agreement is subject to the satisfaction (or written waiver) at or prior to the Closing of each of the following conditions precedent:

(i) **Accuracy of Representations and Warranties.** Each of the representations and warranties of the Seller in this Agreement shall be true and correct in all material respects as of the date of Closing.

(ii) **Absence of a Material Adverse Effect.** A material adverse effect has not occurred with respect to the Property, Purchaser or Purchaser's members and no event has occurred that is reasonably likely to result in such a material adverse effect.

(iii) **Compliance with Agreement.** Seller shall have in all material respects performed and complied with its obligations under this Agreement that are required to be performed or complied with by Seller prior to the Closing.

Ordinance No. \_\_\_\_\_ (cont'd)

(iv) Delivery of Documents. Seller shall have delivered, or caused to be delivered, the documents required to be delivered by Seller in Section 11(c).

(v) No Legal Prohibition. No law or order has been enacted, entered, promulgated, adopted, issued or enforced by any governmental authority that is then in effect and has the effect of making the transactions contemplated by this Agreement illegal or otherwise prohibiting the consummation of the transactions contemplated by this Agreement.

(vi) Satisfaction with Investigation. Purchaser shall be satisfied with its inspection of the Property in accordance with Section 5.

(vii) Title Commitment. Purchaser shall have received the Commitment in the form and substance required by Section 7.

(viii) Receipt of Incentives. All necessary agreements with respect to the following incentives and all conditions to effectiveness that can be satisfied prior to Closing with respect thereto shall have been satisfied:

- (1) a non-refundable Local Job Creation Tax Credit issued by Seller in the annual amount of seventy-five percent (75%) of the City of Hamilton income tax associated with the Project for a period of eight (8) years of operations, any unused portion of which shall be carried forward for a term of five (5) years;
- (2) a ten- (10) year, seventy-five percent (75%) Ohio Enterprise Zone Property Tax Abatement issued by Seller;
- (3) a Sales Tax Exemption for construction materials incorporated into the Project issued by the Butler County Port Authority on the terms set forth in the Term Sheet;
- (4) OhioMeansJobs of Butler County assistance with an estimated value of \$25,535 based on hiring approximately sixty-four (64) full-time Project employees;
- (5) a JobsOhio Economic Development Grant of \$400,000 for Project building, land, machinery and equipment and infrastructure;
- (6) a JobsOhio Workforce Grant of \$400,000 for Project information technology, maintenance and leadership, product knowledge, and quality and technical training;
- (7) Refundable State of Ohio Job Creation Tax Credit, in the amount of 1.618% of Project payroll for eight (8) years of substantial Project operations; and
- (8) a State of Ohio 629 Roadwork Development Grant in support of any public roadway improvements related to the Project.

(ix) Relocation of Facilities; Easement Instrument. Prior to the Closing and pursuant to an instrument approved by Purchaser (the "**Easement Instrument**") to be recorded by Seller prior to the Closing, Seller, at its cost and expense, shall: (x) relocate substantially all of the existing sanitary sewer easement and the drainage easement on the Property (collectively, the "**Current Easements**") to the location described in Exhibit

Ordinance No. \_\_\_\_\_ (cont'd)

C attached hereto and made a part hereof, or such other location as Purchaser may agree, in its sole discretion ( the “**New Easement Area**”); (y) install a new sewer line and drainage improvements in the New Easement Area; and (z) vacate the Current Easements. Purchaser agrees that Seller shall not be required to remove from the Property (A) any excess soil resulting from the relocation and installation activities contemplated by this Section 10(b)(ix); or (B) any of the sanitary sewer line and other improvements that are located in the Current Easements. The provisions of the immediately preceding sentence shall survive the Closing.

(x) Lease. The parties shall have entered into the Lease (as defined in Section 19, below).

(xi) Lot Split. Seller shall have completed the lot split creating the Split Parcel and the lot consolidation creating the new lot and tax parcel for the Property in accordance with the terms of this Agreement.

(c) Seller's Closing Deliveries. At Closing, Seller shall deliver to the Title Company, (or Purchaser as provided below), the following:

(i) the Deed, signed and acknowledge by Seller, conveying title to the Property to Purchaser, using the new parcel number and legal description for the Property set forth in the Lot Consolidation Plat, subject to the Permitted Exceptions.

(ii) a copy of the City Ordinance authorizing the City Manager to execute and deliver the Deed and other Closing documents on behalf of Seller;

(iii) an Affidavit of Title and Non-Foreign Certificate, in the form of Exhibit D attached hereto, signed and acknowledged by Seller;

(iv) the Proration Agreement (as defined below in Section 11(b), below), signed by Seller;

(v) the Lease (as defined in Section 18, below), signed and acknowledged by Seller;

(vi) a Settlement Statement approved by the parties and signed by Seller;

(vii) to Purchaser, exclusive possession of the Property, subject to Permitted Exceptions; and

(viii) such other agreements, assignments, conveyances, instruments, documents, certificates and the like, in form and content acceptable to Seller's counsel, as may be reasonably necessary to effect the transactions contemplated by this Agreement.

(d) Purchaser's Closing Deliveries. At Closing, Purchaser shall deliver to the Title Company, the following:

(i) the Purchase Price to the Title Company;

(ii) such evidence as the Title Company may reasonably require as to the authority of the person or persons executing Closing documents on behalf of Purchaser;

(iii) the Proration Agreement, signed by Purchaser;

Ordinance No. \_\_\_\_\_ (cont'd)

- (iv) the Lease, signed and acknowledge by Purchaser;
- (v) a Settlement Statement approved by the parties and signed by Purchaser; and
- (vi) such other agreements, assignments, conveyances, instruments, documents, certificates and the like, in form and content acceptable to Purchaser's counsel, as may be reasonably necessary to effect the transactions contemplated by this Agreement.

11. **Prorations and Closing Costs.**

(a) **General.** All normal and customarily prorable items shall be prorated as of the Closing, with Seller being charged or credited, as appropriate, for all items attributable to the period up to the Closing and Purchaser being responsible for, and credited or charged, as the case may be, for all items attributable to the period on or after the Closing.

(b) **Taxes.** Real estate taxes and assessments (general and special) on the Property shall be paid by the parties pursuant to the terms of a Real Estate Taxes and Assessments Proration Agreement (the "**Proration Agreement**") in the form of Exhibit E attached hereto. No proration of such taxes and assessments shall be done at Closing.

(c) **Utilities.** Seller shall pay for all utilities payments for the Property, if any, due through the Closing Date.

(d) **Seller's Transaction Costs.** At Closing, the Title Company shall charge to Seller the following:

- (i) the cost of the Lot-Split Survey and the Lot Consolidation Plat and all fees to have the lot split and the lot consolidation approved and recorded at the Closing;
- (ii) the cost of the title examination;
- (iii) the conveyance fee and transfer taxes, if any;
- (iv) the cost of removing or discharging any lien or encumbrance required for conveyance of the Property as required by this Agreement;
- (v) the cost of recording the Easement Instrument, if any; and
- (vi) one-half the escrow fee.

(e) **Purchaser's Transaction Costs.** At Closing, the Title Company shall charge to Purchaser the following:

- (i) the cost of the Title Commitment and the ALTA Survey, if any;
- (ii) the premium of the Owners Title Policy, the cost of a Lender's Policy, if any, and any endorsements to either title policy;
- (iii) the cost of recording the Deed; and
- (iv) one-half the escrow fee.

Ordinance No. \_\_\_\_\_ (cont'd)

(f) **Attorneys' Fees.** Each party will be responsible for payment of its own attorneys' fees.

12. **Restriction on Use.** Purchaser agrees for itself, and its successors and assigns and every successor in interest to the Property or any part thereof, that the Deed (and any future deed by Purchaser conveying any part of the Property) shall contain a covenant (the "**Covenant**") on the part of Purchaser, its successors and assigns, that Purchaser and such successors and assigns shall not discriminate upon the basis of race, color, religion, sex or national origin in the sale, lease, or rental or in the use or occupancy of the Property and any improvements erected or to be erected thereon, or any part thereof. The Covenant shall remain in effect without limitation as to time; provided, however, the Covenant shall be binding on Purchaser, or any successor or assign, only for such period as it shall have title to, or an interest in, or possession or occupancy of, the Property. Further, the Covenant shall: (a) not be a personal covenant between Seller and Purchaser; (b) be a covenant that runs with the land and shall be binding on Purchaser, its successors and assigns, and any future owner or lessee of the Property or any part of it; and (c) be a covenant that is enforceable by Seller, its successors and assigns.

13. **Deliveries.** Purchaser acknowledges and agrees that all documents, materials, data and information delivered by or on behalf of Seller to Purchaser in connection with the transaction contemplated by this Agreement including but not limited to the Property Information, are provided to Purchaser as a convenience only and that any reliance on or use of such documents, materials, data or information by Purchaser shall be at the sole risk of Purchaser. Seller does not represent or warrant the accuracy of and Seller shall have no liability to Purchaser for any inaccuracy in or omission from any such documents, materials, data or information, including but not limited to the Property Information.

14. **Post-Closing Construction and Operation.** As an inducement for Seller to enter into this Agreement, the Purchaser covenants and agrees that:

(a) Purchaser shall use its commercially reasonable efforts to construct the Project on the Property and thereafter to commence its business operations on the Property.

(b) The design and construction of the Project shall be completed: (i) in compliance with all applicable codes, ordinances, and laws; and (ii) substantially in accordance with plans that have been delivered to and approved by Seller (the "**Approved Plans**"), which approval shall not be unreasonably, withheld, conditioned or delayed. In the event that Purchaser desires to make any material modifications to the Approved Plans, Purchaser shall submit such modifications to Seller for its approval, which approval shall not be unreasonably, withheld, conditioned or delayed, and any such approved modifications shall be deemed included in the Approved Plans.

(c) Purchaser shall use its reasonable commercial efforts to complete the Project by the Estimated Project Completion Date. Promptly following the substantial completion of the Project, Purchaser shall deliver to Seller a certificate confirming the date that the Project (or first phase of the Project if the Project is built in two phases) was substantially completed and certifying the amount that Purchaser expended on the construction of the Project.

(d) Purchaser anticipates that the Project will require approximately fifty (50) to seventy (70) employees on a full-time basis, following commencement of full operations and under normal operating conditions.

(e) Purchaser acknowledges that, for purposes of this Agreement, the agreed-upon fair market value of the Property as of the Effective Date is Sixty-Five Thousand and 00/100 Dollars (\$65,000.00) per acre (the "**Per Acre Fair Market Value**") and that but for Purchaser's post-Closing obligations set forth in this Section 14, the Purchase Price for the Property would have been an amount equal to the Per Acre Fair Market Value multiplied by the number of acres contained within the boundaries of the Property. If Purchaser fails to perform its post-Closing obligations set forth in this Section 14, Seller may give written notice to Purchaser identifying in detail Purchaser's failure to so perform such obligations. If Purchaser does not cure the failure identified in such notice within

Ordinance No. \_\_\_\_\_ (cont'd)

sixty (60) days following the date such notice is given to Purchaser (or, provided that Purchaser is diligently pursuing such cure, such longer period as reasonably may be required to cure such breach), Seller may, as an alternative to and in lieu of any other remedies that Seller may have, demand that Purchaser pay to Seller, at the time that Purchaser thereafter sells the Property, an amount equal to the difference between the Per Acre Fair Market Value less the Per Acre Purchase Price, multiplied by the number of acres contained within the boundaries of the Property (i.e., (\$65,000-\$19,500) x Property acreage) (the "**Recovery Payment Obligation**").

(f) The Recovery Payment Obligation of Purchaser (i) shall not be a covenant that runs with the land or be binding upon any future owner or lessee of the Property; (ii) shall be memorialized in the Deed and (iii) shall survive the Closing.

15. **Purchaser's Default.** Except as provided in Section 14 of this Agreement, in the event of any other breach or default by Purchaser under the terms of this Agreement and Purchaser fails to cure such breach or default within sixty (60) days after being given written notice thereof from Seller, then, in addition to Seller's rights and remedies available at law or in equity, Seller shall have the right to seek specific performance of injunctive relief.

16. **Reports.** Beginning on the first day of the second calendar quarter following the Closing and continuing on the first day of each calendar quarter thereafter until the Project is substantially completed, Purchaser shall give Seller written updates regarding the Estimated Project Completion Date, and the approximate amount of funds expended in connection with the construction of the Project.

17. **Broker's Fee.** No broker's, finder's or similar fee or commission is due in connection with the transaction contemplated by this Agreement.

18. **Temporary Office Space.** Seller hereby agrees that Purchaser, for no additional consideration, shall have the right to occupy office space at 345 High Street, Hamilton, Ohio accommodating up to four (4) people pursuant to the terms of a Lease Agreement in form and substance agreed to by the parties (the "**Lease**"), the term of which Lease shall commence on the date of the Closing and shall continue until the earlier of date that: (a) Purchaser vacates such space; (b) Purchaser receives the certificate of occupancy for the Project; or (c) this Agreement or the Lease is terminated.

19. **Notices.** All notices and other communications under this Agreement shall be in writing and shall be deemed duly given and delivered if (a) personally delivered, with signed receipt; (b) sent by reputable commercial overnight delivery service; (c) mailed by certified mail, return receipt requested, first class, postage prepaid; or (d) sent by email or fax with confirmation of delivery. Notices shall be addressed as follows (unless a party provides written notice of a change of address to the other party):

If to Purchaser: Origin Venture LLC  
c/o Squire Patton Boggs (US) LLP  
4900 Key Tower  
127 Public Square  
Cleveland, OH 44114  
Attn: Daniel G. Berick  
Fax: 216) 479-8780  
Email: daniel.berick@squirepb.com

With a copy to: Squire Patton Boggs (US) LLP  
4900 Key Tower  
127 Public Square  
Cleveland, OH 44114  
Attn: Laura D. Nemeth  
Fax: (216) 479-8780  
Email: Laura.Nemeth@squirepb.com

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If to Seller: City of Hamilton, Ohio  
345 High Street  
Hamilton, OH 45011  
Attention: City Manager  
Fax: (513) 785-7010  
Email: Joshua.smith@hamilton-oh.gov

With a copy to: Letitia S. Block, Esq.  
Law Director  
345 High Street  
Hamilton, OH 45011  
Fax: (513) 785-7037  
Email: Letitia.block@hamilton-oh.gov

Such notice, if delivered personally or by overnight courier service, shall be deemed given and delivered at the time of delivery; if sent by certified mail, shall be deemed given and delivered two (2) business days after the time of mailing with appropriate postage attached thereto; and if sent by email or fax upon confirmation of delivery. A person receiving a notice which does not comply with the technical requirements for notice under this Section may elect to waive any deficiencies and treat the notice as having been properly given.

20. **Miscellaneous.**

(a) **Survival.** The provisions of Sections 4, 5(c), 5(g), 11, 12, 13, 14, 15, 16, 17, 18, 19 and 20 of this Agreement will survive the Closing and will not be merged therein.

(b) **Amendment.** No amendment or modification of this Agreement will be valid or binding unless reduced to writing and executed by the parties hereto and their assigns.

(c) **Assignment.** Neither party may assign this Agreement without the other party's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed.

(d) **Adequate Consideration.** Both parties agree that the covenants and promises contained herein are good and sufficient consideration for their respective obligations required hereunder.

(e) **Interpretation.** Captions and headings used in this Agreement are for convenience of reference only and will not affect the construction of any provision of this Agreement. As used herein, the singular will include the plural, and vice versa; and any gender will be deemed to include the masculine, feminine and neuter gender. Should any term or condition hereof be deemed void or unenforceable, the remaining provisions of this Agreement will remain in full force and effect.

(f) **Binding Effect.** The provisions hereof will be binding upon and inure to the benefit of the successors, representatives and permitted assigns of the parties.

(g) **Waiver.** No exercise or waiver, in whole or in part, of any right or remedy provided for in this Agreement will operate as a waiver of any other right or remedy, except as otherwise provide herein. No delay on the part of any party in the exercise of any right or remedy will operate as a waiver thereof.

(h) **Counterparts; Electronic Signatures.** This Agreement may be executed in multiple counterparts, which when any, but not necessarily the same counterpart is executed by all of the parties will constitute the binding agreement of each. Photocopies and faxes, pdf's and other electronic copies or transmissions of signed copies of this Agreement shall have the same force and affect as a signed original contract.

Ordinance No. \_\_\_\_\_ (cont'd)

(i) **Entire Agreement.** This Agreement, the Exhibits attached hereto and the documents referenced herein embody the entire agreement between the parties hereto with respect to the subject matter hereof and supersede any and all prior agreements and understandings, written or oral, formal or informal with respect thereto.

(j) **Business Days; Computation of Time.** All references to “days” in this Agreement shall be construed to mean calendar days unless otherwise expressly provided, and all references to “business days” shall be construed to mean days other than a Saturday, Sunday or legal holiday in the United States or Spain. Wherever under the terms and provisions of this Agreement the time for performance falls upon a Saturday, Sunday or legal holiday in the United States, such time for performance will be extended to the next business day.

(k) **Approval.** Purchaser confirms to Seller that: (i) the Title Company has been provided, without modification, the form of Affidavit of Title and Non-Foreign Certificate (the “Affidavit”) that is attached to this agreement as Exhibit D; and (ii) the Title Company has advised Purchaser that the Affidavit is satisfactory and it shall not require Seller to execute any affidavit, indemnity, hold harmless or other document regarding the Property, except for the Affidavit in substantially the form attached hereto as Exhibit D.

(l) **Official Capacity.** All representations, warranties, covenants, agreements and obligations of Seller under this Agreement shall be effective to the extent authorized and permitted by applicable law. None of those representations, warranties, covenants, agreements or obligations shall be deemed to be a representation, warranty, covenant, agreement or obligation of any present or future officer, agent, employee or attorney of Seller in other than his or her official capacity.

(m) **Governing Law.** This Agreement shall be governed by and all disputes related thereto shall be determined in accordance with the laws of the State of Ohio. The parties agree that the jurisdiction for disputes that arise in connection with this Agreement that are not settled through negotiations or mediation shall be the Court of Common Pleas of Butler County, Ohio. The provisions of this Section shall survive the Closing or termination of this Agreement.

(n) **No Offer Until Executed.** The submission of this Agreement to Purchaser for examination or consideration does not constitute an offer to sell the Property and this Agreement shall become effective, if at all, only upon the full execution and delivery thereof by Purchaser and Seller.

(o) **Time.** Time is of the essence in this Agreement.

(p) **Force Majeure.** Neither party shall be considered in default with regard to its non-monetary obligations to be performed under this Agreement if the performance of such non-monetary obligations is due to an act of God, pandemic, epidemic, natural disaster, war civil disturbance, fire, explosion, any federal, state or local law or any rule, regulation or order of a court or other governmental agency, labor disputes or shortages or construction workers, inability to secure materials or any such other cause that is beyond the reasonable control and without the fault or negligence of the party whose performance has been delayed (collectively, “**Force Majeure**”). The party asserting Force Majeure must give notice in writing to the other party as soon as practical after the occurrence of the cause relied on, and such cause shall be remedied with all reasonable dispatch. It is the purpose and intent of this subsection that in the event of the occurrence of any such Force Majeure delay, the time or times for performance of such non-monetary obligations shall be extended for the period of Force Majeure delay; provided, however, that the party seeking the benefit of the provisions of this subsection shall, within fourteen (14) days after the beginning of such Force Majeure delay, give the other party written notice of the cause thereof and the estimated duration thereof.

Ordinance No. \_\_\_\_\_ (cont'd)

(q) **Effective Date.** For purposes of this Agreement, the term “**Effective Date**” shall be the date Seller signs this Agreement, which date shall be set forth on this first paragraph of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

BUYER:

ORIGIN VENTURE LLC

By: \_\_\_\_\_

Its: \_\_\_\_\_

SELLER:

THE CITY OF HAMILTON, OHIO

By: \_\_\_\_\_

Its: \_\_\_\_\_

Approved As to Form:

\_\_\_\_\_  
City Law Director

**EXHIBIT A**

**GENERAL LOCATION OF THE PROPERTY**



Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL - Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), Swisstopo, Mapbox Contributors, and the GIS User Community, Esri Community Maps, 2014

**Project Cassius Proposed Site**  **City of Hamilton**  
BUTLER COUNTY OHIO

— 20 Acre Parcel    ■ 10 Acre Addition

Date: 3/23/2020 The information presented on this map is for general information only and is not intended for use as a legal document. The City of Hamilton makes no warranty or representation as to the accuracy or completeness of the information presented herein and is not liable for any errors or omissions. All rights reserved. Printed on the inside cover of the map. 1 inch = 752 feet

Ordinance No. \_\_\_\_\_ (cont'd)

**EXHIBIT B**

**BUTLER COUNTY PORT AUTHORITY TERM SHEET**



Ordinance No. \_\_\_\_\_ (cont'd)

**EXHIBIT D**

**AFFIDAVIT OF TITLE AND NON-FOREIGN CERTIFICATE**

STATE OF OHIO, COUNTY OF BUTLER, SS:

Joshua A. Smith ("**Affiant**"), City Manager of the City of Hamilton, Ohio (the "**City**"), an Ohio municipal corporation, being first duly cautioned and sworn deposes and says:

1. That the City is the owner of the real property (the "**Property**") as described on Exhibit C-1 attached hereto and made a part hereof.

2. That there are no outstanding deeds, mortgage, leases, easements or contracts of sale affecting title to the Property to which the City is a party which are not fully disclosed of record and there are no parties in possession or entitled to possession of the Property other than the City.

3. That no work, labor or material has been furnished or performed on or to the Property pursuant to a contract with the City which has not been or which will not timely be fully and completely paid for by the City; nor has any repair, alteration or improvement been performed on or about the Property pursuant to a contract with the City within the last ninety (90) days for which the right to file a mechanic's or materialman's lien exists; nor has any unsatisfied claim for lien or claim for payment been made upon the City for labor or material furnished to the Property.

4. That the City is involved in no court proceedings or disputes with any parties concerning the boundary lines of the Property. Affiant has no knowledge of: (a) any encroachments upon the Property from adjacent properties; nor (b) any encroachments of any improvements located on the Property upon adjoining land.

5. That except as revealed in the public records of Butler County, Ohio, Affiant has no other knowledge of any unsatisfied or unreleased judgments or liens against the City of record nor bankruptcy or court proceedings of any kind against the City which affect the title to the Property.

6. That there are no unpaid real estate taxes or assessments against the Property (except as shown on the current tax duplicate).

7. That the foregoing statements are made for the benefit and purpose of inducing the Amrock, Inc. to issue its title insurance policy or policies upon the Property.

8. Section 1445 of the Internal Revenue Code of 1986, as amended (the "**Code**"), provides that a transferee (buyer) of a United States real property interest must withhold tax if the transferor (seller) is a foreign person. In order to inform the transferee (buyer) that withholding of tax is not required upon the disposition of a United States real property interest, the Affiant, as the President of and on behalf of the City certifies the following:

a) the City is an Ohio municipal corporation, not a foreign corporation, a foreign partnership, a foreign trust, a foreign estate or a non-resident alien for purposes of United States income taxation or otherwise a foreign person (as those terms are defined in the Code and the regulations with respect thereto).

b) the City's United States Employer Identification Number is \_\_\_\_\_; and

c) the City's address is 345 High Street, Hamilton, Ohio 45011.

9. The Affiant understands that this certification may be disclosed to the Internal Revenue Service and that any false statement contained herein could be punished by fine, imprisonment or both.

**Ordinance No.** \_\_\_\_\_ **(cont'd)**

10. Under penalties of perjury, the Affiant declares that the Affiant has examined this certification and to the best of his knowledge and belief it is true, correct and complete, and that the Affiant further declares that he has authority to sign this document on behalf of the City.

Approved As To Form:

\_\_\_\_\_  
City Law Director

\_\_\_\_\_  
Joshua A. Smith, City Manager

Sworn to before me and subscribed in my presence this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by Joshua A. Smith, City Manager. No oath or affirmation was administered to the signer with regard to the notarial act.

\_\_\_\_\_  
Notary Public

Ordinance No. \_\_\_\_\_ (cont'd)

**EXHIBIT E**

**REAL ESTATE TAXES AND ASSESSMENTS PRORATION AGREEMENT**

SELLER: City of Hamilton, Ohio (“**Seller**”)  
PURCHASER: Origin Venture LLC (“**Purchaser**”)  
PROPERTY: \_\_\_\_\_ acres known as Parcel No. \_\_\_\_\_ located in the City of Hamilton, Butler County, Ohio (the “**Property**”), which Property results from the consolidation of Parcel No. P6461.057.000.063 comprised of approximately 20 acres (the “**Existing Parcel**”) with a parcel comprised of approximately 10.8 acre parcel (the “**Split Parcel**”), which was split off of Parcel No. P6461.057.000.060 (the “**Mother Parcel**”)  
DATE OF CLOSING: \_\_\_\_\_, 202\_ (“**Closing**”)

Neither real estate taxes nor assessments (general or special) (“**Taxes and Assessments**”) have been assessed against the Existing Parcel, because Seller is tax-exempt. In addition, Taxes and Assessments have not been separately assessed against the Split Parcel, both because the Seller is tax-exempt and because the Split Parcel was split off of the Mother Parcel. The residue (“**Residue**”) of the Mother Parcel is owned by Seller.

Purchaser and Seller agree that Seller will cause to be paid in full, before the same become delinquent, all installments of Taxes and Assessments, if any, which are due and payable against the Split Parcel and the Residue for the half tax year in which the Closing occurs. After having made such payment, Seller will bill Purchaser for Purchaser's proportionate share of the Taxes and Assessments so paid which are due and payable against the Split Parcel with respect to the period from and after the date on which the Closing occurs. Thereafter, after having paid the Taxes and Assessments in full, Seller will bill Purchaser for Purchaser's proportionate share of the Taxes and Assessments, if any, which are due and payable against the Split Parcel for each subsequent half year until a separate tax bill is issued by the Butler County Treasurer for the Property. In the event that Seller fails to timely pay the Taxes and Assessments for the Mother Parcel prior to the issuance of a separate tax bill for the Property, Purchaser, after notice to Seller which shall include a seven (7)-day opportunity to cure, may pay the delinquent Taxes and Assessments (together with any late fees, charges, penalties or interest assessed) and bill Seller for the same, which such amount shall be payable by Seller to Purchaser within seven (7) days after written demand the therefor. Notwithstanding anything contained in this agreement to the contrary, (i) Seller shall be responsible for any and all Taxes and Assessments accruing on the Mother Parcel (including the Split Parcel) with respect to periods prior to the date on which Closing occurs, (ii) Purchaser shall be responsible for all Taxes and Assessments accruing on the Split Parcel with respect to periods from and after the date on which the Closing occurs, and (iii) Seller shall pay without reimbursement or contribution from Purchaser, any late fees, charges, penalties or interest assessed for Seller's failure to timely pay such Taxes and Assessments on the Mother Parcel (including the Split Parcel) prior to their delinquency. Purchaser's proportionate share of the Taxes and Assessments attributable to the Split Parcel shall be based upon the percentage that the acreage thereof bears to the total of all acreage included in the tax bill for the Mother Parcel. The obligations of Purchaser and Seller hereunder with respect to the Mother Parcel and Split Parcel shall continue until a separate tax bill is rendered for the Property.

Purchaser and Seller further agree that in the event that Purchaser receives one or more bills for Taxes and Assessments on the Existing Parcel (whether in a bill for the Existing Parcel or a bill for the Property) with respect to any period of time preceding the Closing, Purchaser will cause to be paid such Taxes and Assessments and will bill Seller for such amounts following such payment. Seller shall reimburse Purchaser such billed amounts within seven (7) days after written demand the therefor. Notwithstanding anything contained in this agreement to the contrary, (i) Seller shall be responsible for any and all Taxes and Assessments accruing or applicable to the Existing Parcel with respect to periods prior to the date on which Closing occurs, (ii) Purchaser shall be responsible for any and all Taxes and Assessments accruing

**Ordinance No. \_\_\_\_\_ (cont'd)**

or applicable to the Existing Parcel with respect to all periods from and after the date that on which the Closing occurs, and (iii) Seller shall not be responsible for, and Purchaser shall pay without reimbursement or contribution from Seller, any late fees, charges, penalties or interest assessed for Purchaser's failure to timely pay the Taxes and Assessments on the Existing Parcel prior to their delinquency. In the event that Purchaser receives a bill for the Property that includes for Taxes and Assessments accruing on the Existing Parcel for periods prior to the date on which the Closing occurs, Seller's proportionate share of the Taxes and Assessments attributable to the Existing Parcel shall be based upon the percentage of the acreage thereof bears to the total of all acreage included in the tax bill for the Property.

City of Hamilton, Ohio (Seller)

By: \_\_\_\_\_

Approved as to Form:

\_\_\_\_\_  
City Law Director

Origin Venture LLC (Purchaser)

By: \_\_\_\_\_

Its: \_\_\_\_\_

### City Council Meeting Staff Report

**Report To:** The Honorable Mayor Patrick Moeller & Members of the City Council

**Report From:** Dave Jones, Finance Director

**Agenda Item:** An ordinance making supplemental appropriations for current expenses and other expenditures of the City of Hamilton, during Fiscal Year ending December 31, 2020.

<p><b>Approvals/Reviews</b> <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i></p>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	<p><b>Related Strategic Goal(s)</b></p> <input type="checkbox"/> <b>I</b> Realize new investments <input type="checkbox"/> <b>J</b> Increase gross wages <input type="checkbox"/> <b>P</b> Increase property values <input type="checkbox"/> <b>R</b> Generate recreational investments <input type="checkbox"/> <b>E</b> Engage citizens in activities <input checked="" type="checkbox"/> <b>O</b> General operations
<p><b>Ordinance or Resolution</b> <i>Ordinance</i></p>	<input checked="" type="checkbox"/> 1 <sup>st</sup> Reading Date: 8-12-2020 <input checked="" type="checkbox"/> 2 <sup>nd</sup> Reading Date: 8-12-2020 <input type="checkbox"/> Resolution Date: <input type="checkbox"/> Public Hearing Date:	
<p><b>Prior Action/Review</b> <i>Please note if this item was discussed on a prior Council or other agenda</i></p>	<p><b>City Council</b> (or other):</p>	
<p><b>Contract</b></p>	<input type="checkbox"/> Contract Required	<input type="checkbox"/> Additional Document(s) Attached
<p><b>Fiscal Impact</b></p>	<p><b>Total Appropriations:</b> \$32,843,615 net increase to overall appropriations</p> <p><b>General Fund Impact:</b> \$0 net increase in appropriations</p> <p><b>All Other Funds Impact:</b> \$32,843,615 net increase in appropriations –</p> <ul style="list-style-type: none"> <li>• \$30,000,000 increase in the Hamilton Cap &amp; Debt Fund for refinancing non-tax revenue loan</li> <li>• \$2,000,000 increase in the Hamilton Cap &amp; Debt Fund for grant to the CIC and contribution to the CORE</li> <li>• \$494,315 increase in the Hamilton Cap &amp; Debt Fund for Hamilton Enterprise Park Storm Sewer Relocation</li> </ul>	<p><i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i></p>

## Policy Issue

Does City Council wish to adopt legislation to approve this supplemental appropriation ordinance?

## Policy Alternative(s)

Council may choose not to adopt this Supplemental Appropriation Ordinance. If Council does not adopt legislation, the City will not have enough funds appropriated to cover costs associated with the items addressed in the Fiscal Impact Summary.

## Staff Recommendation

Staff recommends that Council receive this report, concur in the recommendation and adopt the necessary legislation. The ordinance will balance accounts and provide the authority to make expenditures.

## Statutory/Policy Authority

- ORC 5705.38 Annual appropriation measures; classification
- ORC 5705.40 Amending or supplementing appropriation; transfer unencumbered balance; contingencies
- Section 3.09, Legislative Procedure, of the Charter of the City of Hamilton.

## Fiscal Impact Summary

### General Fund

### Special Revenue Funds

- Increase appropriations \$4,306 in the Rounding Up Utility Account Trust for additional donations received for Empower Hamilton.
- Increase appropriations \$32,534,315 in the Hamilton Capital Improvement & Debt Service Fund for the following reasons:
  - \$32,000,000 – refinance and payoff of non-tax revenue loan/\$2,000,000 – grant to the CIC and/or contribution to CORE – These are budget amount only to match the not to exceed amount on the bond ordinance. The only new money portion of this is up to \$2,000,000. The remainder refinances the five year Key Bank note.
  - \$40,000 – cameras for Riverside (funding received from Butler Metropolitan Housing Authority)
  - \$494,315 – relocation of storm sewer at Hamilton Enterprise Park (to be reimbursed with property sale proceeds)

### Capital Projects Funds

- Increase appropriations \$20,109 in the Neturen Manufacturing TIF Fund for increased auditor collection fees due to increased collections.
- Increase appropriations \$135,457 in the Government Building Sale Proceeds Fund to add back leftover prior year budget from Fairfield Township round-a-bout.

### Debt Service Funds

- Increase appropriations \$148,728 for interest due on 2020 Non-Tax Revenue Bonds.

### Enterprise Funds

### Internal Service Funds

### Trust and Agency Funds

- Increase appropriations \$700 in the Benninghoffen Trust Fund for additional utility assistance funds due to higher interest earnings.

## Attached Information

N/A

## Copies Provided to:

N/A



**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE MAKING SUPPLEMENTAL APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES OF THE CITY OF HAMILTON, DURING THE FISCAL YEAR ENDING DECEMBER 31, 2020.**

BE IT ORDAINED by the Council of the City of Hamilton, Ohio:

SECTION I: That the following unappropriated or unencumbered balances of funds be and the same are hereby re-appropriated as follows:

<u>NUMBER</u>	<u>FUND NAME</u>	<u>AMOUNT</u>
100	From the General Fund	<u>49,071,181</u>
	Personnel Subtotal:	35,860,806
	Non-Personnel Subtotal:	13,210,375
200	From the One Renaissance Fund	2,623,220
206	From the Local Coronavirus Relief Distribution	1,253,762
207	From the Hamilton Court Sec. Proj	70,000
208	From the Hamilton Court Sp Proj Fd	29,250
210	From the Public Safety Health Inc Tax	3,405,000
211	From the Rounding Up Util Acct	7,500 11,806
212	From the Hamilton Muni Ct Cap Imp	201,000
213	From the MIT Aggregatn/Verifctn Fd	0
215	From the Ham Cap Imp Debt Serv	34,522,367 67,056,682
221	From the Dispute Resolution Proc Fd	<u>5,799</u>
	Personnel Subtotal:	4,799
	Non-Personnel Subtotal:	1,000
225	From the Justice Assistance Grant	18,572
227	From the Land Reutilization Fund	<u>79,007</u>
	Personnel Subtotal:	59,007
	Non-Personnel Subtotal:	20,000
231	From the Law Enforcement Trust	23,600
233	From the Safety Seat Belt Grant	0
235	From the Public Safety Spec Proj	<u>66,800</u>
	Personnel Subtotal:	40,800
	Non-Personnel Subtotal:	26,000

<u>NUMBER</u>	<u>FUND NAME</u>	<u>AMOUNT</u>
238	From the Probation Services	<u>258,826</u>
	Personnel Subtotal:	244,571
	Non-Personnel Subtotal:	14,255
240	From the Drug Law Enforcement Trust	40,000
241	From the DUI Enforcement & Eductn Trst	4,500

242	From the Indigent Drivers Alcohol Trt		11,480
246	From the Police Pension Fund		240,000
249	From the Police Levy Fund		725,000
250	From the Firemen's Pension Fund		240,000
251	From the Emergency Medical Serv Grant		0
252	From the Charter Fire Force Fund		800,000
253	From the Fire EMS Levy Fund		725,000
260	From the Immunization Action Plan Grant		0
		Personnel Subtotal:	0
		Non-Personnel Subtotal:	0
261	From the Kathryn Weiland Trust		510
		Personnel Subtotal:	0
		Non-Personnel Subtotal:	510
270	From the Street & Parks Beautification		0
278	From the Motor Vehicle License Tax Fund		300,000
279	From the Stormwater Mgmt Fund		5,913,888
		Personnel Subtotal:	874,842
		Non-Personnel Subtotal:	5,039,046
280	From the Refuse Fund		5,086,242
		Personnel Subtotal:	869,295
		Non-Personnel Subtotal:	4,216,947
281	From the Street Maintenance Fund		4,349,307
		Personnel Subtotal:	1,464,661
		Non-Personnel Subtotal:	2,884,646
283	From the Convention & Visitors Bur Fd		100,000
301	From the Special Assessments		1,467,000
303	From the Lowes MITIE Talawanda Fund		100,000
304	From the Walmart MITIE Hamilton Fund		180,000
307	From the Issue II Project Fund		1,100,000
308	From the Matandy Steel MPITIE Fund		50,000
309	From the Robinson Schwenn MPITIE Fund		4,600
310	From the Clean Ohio Grants Program		0
311	From the Infrastructure Renewal Program		7,196,500
348	From the RIDs - MPITIE Citywide District		410,000
<b>NUMBER</b>	<b>FUND NAME</b>		<b>AMOUNT</b>
349	From the RIDs - MPITIE North District		70,000
350	From the RIDs - MPITIE South District		42,000
351	From the Quality Publishing MPITIE Fd		10,700
352	From the Shoppes @ Hamilton MPITIE Fd		150,000
353	From the Historic Developers - Mercantile		43,000

354	From the Tippman Properties MPITIE Fd		3,900
355	From the Neturen Manufacturing TIF	70,006	90,115
356	From the Champion Mill Sports Complex TIF		0
357	From the Mixed Use Development SODA TIF		77,500
360	From the Government Building Sale Proceeds Fund	12,322,968	12,458,425
501	From the Gas Utility		21,292,700
	Personnel Subtotal:		2,568,808
	Non-Personnel Subtotal:		18,723,892
502	From the Electric Utility		92,162,700
	Personnel Subtotal:		10,431,863
	Non-Personnel Subtotal:		81,730,837
503	From the Water Utility		16,807,725
	Personnel Subtotal:		3,872,077
	Non-Personnel Subtotal:		12,935,648
504	From the Wastewater Utility		13,498,900
	Personnel Subtotal:		3,024,019
	Non-Personnel Subtotal:		10,474,881
512	From the Gas Construction		157,997
515	From the Gas Capital Improvement Fund		1,740,000
516	From the Gas Rate Stabilization Fd		0
517	From the Gas System Reserve		0
518	From the Gas Bond Service Fund		805,000
522	From the Electric Construction		12,337,669
524	From the Hydroelectric operations Fd		2,196,564
	Personnel Subtotal:		1,941,836
	Non-Personnel Subtotal:		254,728
525	From the Electric Cap Improvement Fd		9,533,300
526	From the Electric Rate Stabilization Fd		10,000,000
527	From the Electric System Reserve		10,000,000
528	From the Electric Bond Service Fd		2,693,000
531	From the Water Construction Fd		7,241,720
<b>NUMBER</b>	<b>FUND NAME</b>		<b>AMOUNT</b>
535	From the Water Cap Improvement Fd		1,312,000
536	Water Rate Stabilization Fund		0
538	From the Water Bond service Fund		1,830,000
541	From the Wastewater Construction Fd		550,330
	Personnel Subtotal:		0
	Non-Personnel Subtotal:		550,330
545	From the Wastewater Cap Imp Fd		2,913,170
548	From the Wastewater Bond Service Fd		3,583,000
550	From the Parking Fund		527,676
	Personnel Subtotal:		150,250

		Non-Personnel Subtotal:	377,426
551	From the Parking Cap Improvement Fund		0
560	From the Golf Fund		1,162,620
		Personnel Subtotal:	513,123
		Non-Personnel Subtotal:	649,497
610	From the Fleet Mtce Fund		3,121,366
		Personnel Subtotal:	1,015,648
		Non-Personnel Subtotal:	2,105,718
620	From the Central Services Fund		8,706,406
		Personnel Subtotal:	4,877,813
		Non-Personnel Subtotal:	3,828,593
640	Central Benefits Fund		990,000
650	Economic Budget Stabilization Fund		300,000
715	From the Unclaimed Monies Fund		20,000
730	From the Benninghofen Trust Fd	1,000	1,700
775	From the Sinking Fund	7,509,500	7,658,228

**The Fund appropriations include these transfer limits:**

Into the Sinking Fund - 775		
	Out of the Ham Cap Imp Debt Serv - 215	148,728

**The Fund appropriations include these advance limits:**

**The Fund appropriations include these return of advance limits:**

SECTION II: This ordinance shall take effect and be in full force from and after the earliest period allowed by law.

PASSED: \_\_\_\_\_

\_\_\_\_\_  
Mayor

Effective Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
City Clerk

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk of the City of Hamilton, State of Ohio, hereby certify that the foregoing Ordinance No. \_\_\_\_\_ was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in the lobby of City Hall for a period of ten days. Posted: \_\_\_\_\_

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**

## City Council Meeting Staff Report

**Report To:** The Honorable Mayor Patrick Moeller & Members of the City Council

**Report From:** Craig R. Bucheit, Chief of Police

**Agenda Item:** A resolution ratifying and approving the execution of an Interlocal Agreement, and authorizing the Police Department to apply for funding for Fiscal Year 2020 Justice Assistance Grant (JAG) to be used for Law Enforcement purposes, and accepting said grant funds.

<b>Approvals/Reviews</b> <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	<b>Related Strategic Goal(s)</b> <input type="checkbox"/> <b>I</b> Realize new investments <input type="checkbox"/> <b>J</b> Increase gross wages <input type="checkbox"/> <b>P</b> Increase property values <input type="checkbox"/> <b>R</b> Generate recreational investments <input type="checkbox"/> <b>E</b> Engage citizens in activities <input checked="" type="checkbox"/> <b>O</b> General operations
<b>Ordinance or Resolution</b> <i>Resolution</i>	<input type="checkbox"/> 1 <sup>st</sup> Reading Date: <input type="checkbox"/> 2 <sup>nd</sup> Reading Date: <input checked="" type="checkbox"/> Resolution Date: 8-12-20 <input checked="" type="checkbox"/> Public Hearing Date: 8-12-20	
<b>Prior Action/Review</b> <i>Please note if this item was discussed on a prior Council or other agenda</i>	<b>City Council (or other):</b>	
<b>Contract</b>	<input type="checkbox"/> Contract Required	<input checked="" type="checkbox"/> Additional Document(s) Attached
<b>Fiscal Impact</b>	Budgeted: 2021 Expenditure: \$16,050 Source Funds: Justice Assistance Grant Fund (225)	<i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i>

### Policy Issue

Does City Council wish to adopt legislation to adopt a resolution ratifying the application for funding from the Department of Justice for the 2020 Justice Assistance Grant (JAG) in the amount of \$16,050 to offset the cost for one new marked cruiser with equipment?

### Policy Alternative(s)

Council may choose to not to adopt such legislation, however, if the legislation is not adopted, the City will not receive the funds for the new police cruiser. Council may choose not to adopt such legislation to apply for the 2020 JAG Grant, however if Council does not adopt the legislation, the City of Hamilton will not receive the funds for the new police cruiser.

### Staff Recommendation

Staff recommends that Council receive this report and adopt the necessary legislation to adopt a resolution ratifying the application for the Department of Justice 2020 Justice Assistance Grant (JAG) in the amount of \$16,050 for a new police cruiser.



## **Statutory/Policy Authority**

- Section 3.09, Legislative Procedure, of the Charter of the City of Hamilton.

## **Fiscal Impact Summary**

The amount of \$16,050 from the FY 2020 Justice Assistance Grant (JAG) will be appropriated in the City's 2021 Adopted Budget (225.140.700.392). There are no matching funds required. The corresponding revenue code will be budgeted in the City's 2021 Adopted Budget (225.003.431.430) as the funds will be received in 2021 if awarded. If the funds are not awarded the appropriation will be removed and the funds will not be expended.

## **Background Information**

The FY 2020 Justice Assistance Grant (JAG) must be used for law enforcement purposes. City Administration, upon the recommendation of the Division of Police, recommends that these funds be used to offset the purchase one marked cruiser with equipment.

In order to proceed with this project, it is necessary that Council hold a public hearing on August 12, 2020, regarding the proposed funding expenditure and, after the public hearing adopt a resolution allowing the Police Department to commence with the application process.

Butler County was identified as disparate for the 2020 Ohio Local JAG Allocations. Jurisdictions identified by BJA as disparate must identify a fiscal agent that will submit a joint application for the aggregate eligible allocation to all disparate municipalities. The joint application must determine and specify the award distribution to each unit of local government and the purposes for which the funds will be used. A memorandum of understanding (MOU) that identifies which jurisdiction will serve as the applicant or fiscal agent for joint funds must be completed and signed by the authorized representative for each participating jurisdiction.

Butler County will act as the fiscal agent for the 2020 JAG grant and submit a joint application which includes the City of Hamilton and the City of Middletown. Butler County has requested to split the total allocation of \$48,149 three ways, and will retain \$16,049 as their portion. The City of Hamilton will receive \$16,050 and the City of Middletown will receive \$16,050 of the 2020 JAG grant funds.

## **Attached Information**

- Proposed Interlocal Agreement MOU (Memorandum of Understanding) for the FY2020 JAG Grant
- 2020 Ohio Local JAG Allocations

## **Copies Provided to:**

N/A



**U.S. DEPARTMENT OF JUSTICE  
OFFICE OF JUSTICE PROGRAMS**

**Edward Byrne Justice Assistance Grant Program FY 2020 Local Solicitation**

**Certifications and Assurances by the Chief Executive of the Applicant Government**

On behalf of the applicant unit of local government named below, in support of that locality's application for an award under the FY 2020 Edward Byrne Justice Assistance Grant ("JAG") Program, and further to 34 U.S.C. § 10153(a), I certify to the Office of Justice Programs ("OJP"), U.S. Department of Justice ("USDOJ"), that all of the following are true and correct:

1. I am the chief executive of the applicant unit of local government named below, and I have the authority to make the following representations on my own behalf as chief executive and on behalf of the applicant unit of local government. I understand that these representations will be relied upon as material in any OJP decision to make an award, under the application described above, to the applicant unit of local government.
2. I certify that no federal funds made available by the award (if any) that OJP makes based on the application described above will be used to supplant local funds, but will be used to increase the amounts of such funds that would, in the absence of federal funds, be made available for law enforcement activities.
3. I assure that the application described above (and any amendment to that application) was submitted for review to the governing body of the unit of local government (*e.g.*, city council or county commission), or to an organization designated by that governing body, not less than 30 days before the date of this certification.
4. I assure that, before the date of this certification— (a) the application described above (and any amendment to that application) was made public; and (b) an opportunity to comment on that application (or amendment) was provided to citizens and to neighborhood or community-based organizations, to the extent applicable law or established procedure made such an opportunity available.
5. I assure that, for each fiscal year of the award (if any) that OJP makes based on the application described above, the applicant unit of local government will maintain and report such data, records, and information (programmatic and financial), as OJP may reasonably require.
6. I have carefully reviewed 34 U.S.C. § 10153(a)(5), and, with respect to the programs to be funded by the award (if any), I hereby make the certification required by section 10153(a)(5), as to each of the items specified therein.

\_\_\_\_\_  
Signature of Chief Executive of the Applicant Unit of  
Local Government

\_\_\_\_\_  
Date of Certification

\_\_\_\_\_  
Printed Name of Chief Executive

\_\_\_\_\_  
Title of Chief Executive

\_\_\_\_\_  
Name of Applicant Unit of Local Government

2020 OHIO LOCAL JAG ALLOCATIONS

Listed below are all jurisdictions in the state that are eligible for FY 2020 JAG funding, as determined by the JAG formula. For additional details regarding the JAG formula and award calculation process, with examples, please refer to the JAG Technical report here: <https://www.bja.gov/Jag/pdfs/JAG-Technical-Report.pdf> and current JAG Frequently Asked Questions here: <https://www.bja.gov/Funding/JAGFAQ.pdf>.

Finding your jurisdiction:

(1) Disparate jurisdictions are listed in shaded groups below, in alphabetic order by county.

(2) Direct allocations are listed alphabetically below the shaded, disparate groupings.

(3) Counties that have an asterisk (\*) under the "Direct Allocation" column did not submit the level of violent crime data to qualify for a direct award from BJA, but are in the disparate grouping indicated by the shaded area. The JAG legislation requires these counties to remain a partner with the local jurisdictions receiving funds and must be a signatory on the required Memorandum of Understanding (MOU). A sample MOU is provided online at: <https://www.bja.gov/Funding/JAGMOU.pdf>. Disparate jurisdictions do not need to abide by the listed individual allocations, which are provided for information only. Jurisdictions in a funding disparity are responsible for determining individual amounts within the Eligible Joint Allocation and for documenting individual allocations in the MOU.

State	Jurisdiction Name	Government Type	Direct Allocation	Joint Allocation
OH	ALLEN COUNTY	County	*	
OH	LIMA CITY	Municipal	\$25,264	\$25,264
OH	BUTLER COUNTY	County	*	
OH	HAMILTON CITY	Municipal	\$27,787	
OH	MIDDLETOWN CITY	Municipal	\$20,362	\$48,149
OH	CLARK COUNTY	County	*	
OH	SPRINGFIELD CITY	Municipal	\$32,399	\$32,399
OH	CUYAHOGA COUNTY	County	*	
OH	CLEVELAND CITY	Municipal	\$525,120	
OH	CLEVELAND HEIGHTS CITY	Municipal	\$10,703	
OH	EAST CLEVELAND CITY	Municipal	\$10,413	
OH	EUCLID CITY	Municipal	\$25,206	
OH	PARMA CITY	Municipal	\$10,819	\$582,261
OH	FAIRFIELD COUNTY	County	*	
OH	LANCASTER CITY	Municipal	\$11,341	\$11,341
OH	FRANKLIN COUNTY	County	*	
OH	COLUMBUS CITY	Municipal	\$401,236	
OH	WHITEHALL CITY	Municipal	\$11,341	\$412,577
OH	HAMILTON COUNTY	County	\$15,489	
OH	CINCINNATI CITY	Municipal	\$238,311	\$253,800
OH	LORAIN COUNTY	County	*	
OH	ELYRIA CITY	Municipal	\$10,964	
OH	LORAIN CITY	Municipal	\$19,463	\$30,427
OH	LUCAS COUNTY	County	*	
OH	TOLEDO CITY	Municipal	\$248,695	\$248,695
OH	MAHONING COUNTY	County	*	
OH	YOUNGSTOWN CITY	Municipal	\$37,620	\$37,620
OH	MONTGOMERY COUNTY	County	\$21,754	
OH	DAYTON CITY	Municipal	\$116,197	\$137,951
OH	RICHLAND COUNTY	County	*	
OH	MANSFIELD CITY	Municipal	\$20,594	\$20,594
OH	STARK COUNTY	County	*	
OH	CANTON CITY	Municipal	\$69,353	\$69,353
OH	SUMMIT COUNTY	County	*	
OH	AKRON CITY	Municipal	\$127,567	\$127,567
OH	TRUMBULL COUNTY	County	*	
OH	WARREN CITY	Municipal	\$20,362	\$20,362
OH	CLERMONT COUNTY	County	\$10,036	
OH	LAKE COUNTY	County	\$22,218	
Local total			\$2,090,612	

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION RATIFYING AND APPROVING THE EXECUTION OF AN INTERLOCAL AGREEMENT, AND AUTHORIZING THE POLICE DEPARTMENT TO APPLY FOR FUNDING FOR FISCAL YEAR 2020 JUSTICE ASSISTANCE GRANT (JAG) TO BE USED FOR LAW ENFORCEMENT PURPOSES, AND ACCEPTING SAID GRANT FUNDS.**

WHEREAS, the City of Hamilton, Ohio's Division of Police has been allocated \$16,050 from the Fiscal Year 2020 Justice Assistance Grant (JAG) as a result of negotiations with other Butler County law enforcement agencies; and

WHEREAS, such funds must be used for law enforcement purposes and it is intended that the funds will be used to offset the purchase of a new marked police cruiser with related equipment; and

WHEREAS, Council desires to ratify and approve the filing of an application for said grant, the execution of an Interlocal Agreement by and between the City and various Butler County law enforcement agencies relative to said grant, the acceptance of said grant and the purchase of said equipment; and

WHEREAS, Council finds a public purpose to be served by this action by enhancing the ability of the City's Division of Police to protect the safety and welfare of the City's citizens;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Hamilton, Ohio:

SECTION I: That the City Council authorizes the Hamilton Police Department to file an application for Fiscal Year 2020 Justice Assistance Grant (JAG) funds, for the purchase of a new marked police cruiser with related equipment.

SECTION II: That the City Mayor's execution and the filing of an Interlocal Agreement by and between the City of Hamilton and various Butler County law enforcement agencies, relative to said 2020 JAG, be and is hereby ratified and approved. Said agreement is attached hereto as Exhibit No. 1, made a part hereof and incorporated herein by reference.

SECTION III: That this Council, on behalf of the City of Hamilton, hereby accepts the City's allocation of said grant funds in the amount of Sixteen Thousand and Fifty Dollars (\$16,050.00).

SECTION IV: That the City Mayor be and is hereby authorized and directed to execute any and all documents necessary to receive said 2020 JAG funds.

SECTION V: This resolution shall take effect and be in full force from and after the earliest period allowed by law.

PASSED: \_\_\_\_\_

\_\_\_\_\_  
Mayor

Effective Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
City Clerk

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk of the City of Hamilton, Ohio, State of Ohio, hereby certify that the foregoing Resolution No. \_\_\_\_\_ was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in the lobby of City Hall for a period of ten days. POSTED: \_\_\_\_\_.

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**

Resolution No. \_\_\_\_\_ (cont'd)

**EXHIBIT NO. 1**

**GMS APPLICATION NO. 2020-H7976-OH-DJ**

**THE STATE OF OHIO**

**COUNTY OF BUTLER**

**INTERLOCAL AGREEMENT**

**BETWEEN THE COUNTY OF BUTLER, OH; CITY OF HAMILTON, OH; AND CITY OF MIDDLETOWN, OH**

**2020 BYRNE JUSTICE ASSISTANCE GRANT (JAG) PROGRAM AWARD**

**KNOW ALL BY THESE PRESENT**

This Agreement is made and entered into this 31st day of July, 2020, by and between The COUNTY of BUTLER, acting by and through its governing body, the Commissioners Court, hereinafter referred to as COUNTY, the CITY of HAMILTON and the CITY of MIDDLETOWN, both acting by and through their governing body, the City Council, both of BUTLER County, State of OHIO, witnesseth:

**WHEREAS**, this Agreement is made under the authority of applicable sections of Government Code: and

**WHEREAS**, each governing body, in performing governmental functions or in paying for the performance of governmental functions hereunder, shall make that performance or those payments from current revenues legally available to that party: and

**WHEREAS**, each governing body finds that the performance of this Agreement is in the best interests of all parties, that the undertaking will benefit the public, and that the division of costs fairly compensates the performing party for the services or functions under this Agreement: and

**WHEREAS**, the COUNTY, the CITY of HAMILTON and the CITY of MIDDLETOWN mutually agree that the JAG award funds for 2020 of \$48,149 when drawn by the COUNTY shall be allocated by the COUNTY as per the distribution outlined in Section 1 below.

**NOW THEREFORE, the COUNTY, the CITY of HAMILTON and the CITY of MIDDLETOWN agree as follows:**

**Section 1.**

It is mutually agreed by all agencies that the COUNTY will serve as the applicant/fiscal agency for the joint funds provided under the JAG award.

It is further mutually agreed that the JAG award will be disbursed as follows:

The COUNTY will retain \$16,049, to be used for the Law Enforcement Programs purpose area.

The COUNTY agrees to provide the CITY of HAMILTON \$16,050, to be used for the Law Enforcement Programs purpose area.

The COUNTY agrees to provide the CITY of MIDDLETOWN \$16,050, to be used for the Law Enforcement Programs purpose area.

Resolution No. \_\_\_\_\_ (cont'd)

**Section 2.**

Each of the parties to this Agreement agree to use its share of the allocated funding for the Law Enforcement Program by September 30, 2023.

**Section 3.**

Nothing in the performance of this Agreement shall impose any liability for claims against COUNTY other than claims for which liability may be imposed by the Ohio Tort Claims Act.

**Section 4.**

Nothing in the performance of this Agreement shall impose any liability for claims against the CITY of HAMILTON other than claims for which liability may be imposed by the Ohio Tort Claims Act.

**Section 5.**

Nothing in the performance of this Agreement shall impose any liability for claims against the CITY of MIDDLETOWN other than claims for which liability may be imposed by the Ohio Tort Claims Act.

**Section 6.**

Each party to this agreement will be responsible for its own actions in providing services under this Agreement and shall not be liable for any civil liability that may arise from the furnishing of the services by the other party.

**Section 7.**

The parties to this Agreement do not intend for any third party to obtain a right by virtue of this Agreement.

**Section 8.**

By entering into this Agreement, the parties do not intend to create any obligations express or implied other than those set out herein; further, this Agreement shall not create any rights in any party not a signatory hereto.



## City Council Meeting Staff Report

**Report To:** The Honorable Mayor Patrick Moeller & Members of the City Council

**Report From:** Pat Moeller, Mayor of the City of Hamilton

**Agenda Item:** A resolution supporting and advocating for the passage of H.R. 7094 “Flexibility for States and Localities Act”.

<b>Approvals/Reviews</b> <i>To be checked by the Office of the City Manager once approvals received from Departments. All other boxes to be checked by the Report author</i>	<input checked="" type="checkbox"/> Department Head <input checked="" type="checkbox"/> Finance Department <input checked="" type="checkbox"/> Director of Law <input checked="" type="checkbox"/> Office of the City Manager	<b>Related Strategic Goal(s)</b> <input type="checkbox"/> <b>I</b> Realize new investments <input type="checkbox"/> <b>J</b> Increase gross wages <input type="checkbox"/> <b>P</b> Increase property values <input type="checkbox"/> <b>R</b> Generate recreational investments <input type="checkbox"/> <b>E</b> Engage citizens in activities <input checked="" type="checkbox"/> <b>O</b> General operations
<b>Ordinance or Resolution</b> <i>Resolution</i>	<input type="checkbox"/> 1 <sup>st</sup> Reading Date: <input type="checkbox"/> 2 <sup>nd</sup> Reading Date: <input checked="" type="checkbox"/> Resolution Date: 8-12-2020 <input type="checkbox"/> Public Hearing Date:	
<b>Prior Action/Review</b> <i>Please note if this item was discussed on a prior Council or other agenda</i>	<b>City Council</b> (or other): R2020-7-27 passed at 7-22-2020 City Council Meeting	
<b>Contract</b>	<input type="checkbox"/> Contract Required	<input type="checkbox"/> Additional Document(s) Attached
<b>Fiscal Impact</b>	Budgeted: \$0 Expenditure: \$0 Source Funds:	<i>Please see further, more detailed information regarding the fiscal impact in the summary section of this report</i>

### Policy Issue

Does City Council wish to adopt legislation to supporting and advocating for the passage of H.R. 7094 “Flexibility for States and Localities Act”?

### Policy Alternative(s)

Council may choose not to adopt such legislation supporting and advocating for the passage of H.R. 7094 “Flexibility for States and Localities Act”. Alternatively, Council may choose to advocate for stronger language than what is already proposed in H.R. 7094.

### Staff Recommendation

Staff recommends that Council receive this report and adopt the legislation to supporting and advocating for the passage of H.R. 7094 “Flexibility for States and Localities Act” because the City has expenses and loss of revenues from Covid-19 and with how the CARES Act is currently written, municipalities are limited on what the funds can be used for. If H.R. 7094 were to pass it would allow greater flexibility for the use of these funds.



## **Statutory/Policy Authority**

- Section 3.09, Legislative Procedure, of the Charter of the City of Hamilton.
- H.R. 7094 “Flexibility for States and Localities Act”

## **Fiscal Impact Summary**

The City of Hamilton has received over \$2.1 million in grant funds primarily from the Community Development Block Grant funds and Coronavirus Relief Funds – Local Government Assistance Program authorized by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Public Law 116-136, which was signed by President Trump on March 27, 2020, to respond to the growing effects of this historic public health crisis.

However, both of these grants had specific restrictions that they are to be used only to prevent, prepare for, and respond to the coronavirus (COVID-19) crisis. They specifically prohibit the City to use the money for revenue replacement. Currently, the City is projecting to have a significant loss of revenue and spend down \$3 million of unencumbered General Fund balance directly due to the COVID-19 pandemic.

## **Background Information**

H.R. 7094, would allow local governments to use funds from the CARES Act for revenue replacement to help stabilize local budgets. Budget stabilization is the overriding concern for Ohio’s municipalities as they navigate the economic fallout from the coronavirus pandemic. While not all local governments have experienced the same amount of COVID-19 expenditures, all municipalities are experiencing steep revenue loss because of the pandemic's impact on the municipal income tax. This negative impact is projected to be experienced for next several years. It is critical that municipalities are able to use current CARES Act funds, currently accessible and distributed to Ohio’s local governments, for revenue replacement. It would ensure Ohio’s cities and villages can continue to keep residents safe, keep essential workers on the job and continue to support local economies. Allowing municipalities to use CARES Act funding for budget stabilization will play a critical role in helping cities through the economic downturn, buying time for local revenue streams to return as the economy recovers. Otherwise, cities will be forced to make painful cuts to essential services that will impede Ohio’s ability to revitalize and strengthen our economy.

## **Attached Information**

N/A

## **Copies Provided to:**

- Representative Warren Davidson’s Office



**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION SUPPORTING AND ADVOCATING FOR THE PASSAGE OF H.R. 7094 "FLEXIBILITY FOR STATES AND LOCALITIES ACT".**

WHEREAS, the City of Hamilton has experienced significant loss of revenue related to the impact of the Coronavirus pandemic; and

WHEREAS, the US Government, in response to the Coronavirus pandemic, passed the CARES Act and associated measures to support entities that suffered loss as a result of the Coronavirus pandemic; and

WHEREAS, the CARES Act funding restricted how State and Local agencies spent the funding and did not allow for flexibility to offset loss of revenue and associated budget shortfalls; and

WHEREAS, the Flexibility for States and Localities Act would allow local governments to utilize their remaining funding to offset budgetary shortfalls related to Coronavirus; and

WHEREAS, this would be welcome news for the City of Hamilton and for all local governments in the State of Ohio in order to continue to provide services and support to citizens in a time of large funding shortfalls due to Coronavirus.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Hamilton, Ohio:

SECTION I: That this Council, hereby supports and advocates for the passage of H.R. 7094 "Flexibility for States and Localities Act".

SECTION II: This resolution shall take effect and be in full force from and after the earliest period allowed by law.

PASSED: \_\_\_\_\_

\_\_\_\_\_  
Mayor

Effective Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_

City Clerk

**CERTIFICATE**

I, Nicholas Garuckas, City Clerk of the City of Hamilton, Butler County, Ohio, hereby certify that the foregoing Resolution No. \_\_\_\_\_ was duly published as provided by Section 113.01 of the Codified Ordinances of the City of Hamilton, Ohio, by posting ten days after passage, a copy thereof in the lobby of City Hall for a period of ten days. POSTED: \_\_\_\_\_.

\_\_\_\_\_  
**Nicholas Garuckas, City Clerk**  
**CITY OF HAMILTON, OHIO**