



Real Estate Update

October 2023

New Ordinance Impacts Real Estate Around Wright-Patterson Air Force Base

On September 25, the city of Beavercreek, Ohio, enacted an ordinance that will make it more onerous for foreign persons and companies to buy and develop land around Wright-Patterson Air Force Base (WPAFB). The ordinance requires prospective developers seeking zoning permits to certify that they are not subject to review by the [Committee on Foreign Investment in the United States \(CFIUS\)](#). If an applicant is subject to CFIUS review, it must provide documentation regarding the results of the review.

CFIUS is an interagency committee comprising the heads of the Departments of Treasury, Justice, Homeland Security, Commerce, Defense, State, and Energy, as well the Office of the U.S. Trade Representative and the Office of Science & Technology Policy. CFIUS [reviews](#) transactions involving foreign investment in the United States and certain real estate transactions by foreign persons, including transactions within 1 to 100 miles of sensitive military installations and federal government facilities, to determine the effect of such transactions on U.S. national security.

Under the new ordinance, Beavercreek's planning and development director cannot issue any zoning permit unless the applicant first certifies that it is not a foreign person subject to CFIUS regulation. If the applicant is a such a foreign person, the ordinance requires the planning and development director to "request the applicant or applicant's agent to submit a CFIUS filing and to submit the results of the CFIUS national security review or investigation to the City."¹ If the applicant refuses to submit to a CFIUS review, the city may essentially "red flag" the applicant and refer it to a

WPAFB Installation Commander for consideration of further action. If it is ultimately determined that approval of the application and grant of a permit would violate a CFIUS regulation, the planning and development director must notify the Beavercreek City Council immediately.

Various media outlets have reported that this is one of the first local ordinances of its kind in the country. If successful, we are almost certain to see other municipalities across the country, especially those located in close vicinity to military installations, enact similar legislation.

FOR MORE INFORMATION

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¹ Beavercreek Municipal Code § 158.005(D).